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Decision

Matter of: Meadowgate Technologies, LLC

File: B-405989; B-405989.3

Date: January 17, 2012

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Buchanan Ingersoll & Rooney, P.C., for the protester.

Kenneth D. Brody, Esq., and Thomas K. David, Esq., David, Brody & Dondershine,
LLP, for NCS Technologies, Inc., the intervenor.

Christian F.P. Jordan, Esq., Kimberly M. Shackelford, Esq., and Angela M. Varner,
Esq., Department of Homeland Security, for the agency.

Peter D. Verchinski, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's past performance evaluation and selection decision is denied where the record shows that the agency's evaluation and selection decision was reasonable and consistent with the terms of the solicitation.

DECISION

Meadowgate Technologies, LLC, of Trenton, New Jersey, protests the award of a contract to NCS Technologies Incorporated, of Gainesville, Virginia, under request for proposals (RFP) No. HSTS03-11-R-CIO314, issued by the Department of Homeland Security, Transportation Security Administration (TSA), for desktop and tablet computers and other computer hardware. Meadowgate challenges the agency's evaluation of NCS's past performance and selection decision.

We deny the protest.

BACKGROUND

The RFP was issued as a combined synopsis/solicitation in accordance with commercial item acquisition procedures of Federal Acquisition Regulation (FAR) subpart 12.6, and provided for the award of one or more fixed-price indefinite-delivery/indefinite-quantity contracts for various types of computer equipment. The RFP sought prices for six different categories of computer

equipment, including desktop and tablet computers. Agency Report (AR), RFP, at 1-2.¹

Offerors were informed that award(s) would be made on a best value basis considering price and the following four technical evaluation factors (listed in descending order of importance): equipment specifications, warranty support, production, and past performance. The RFP stated that the technical evaluation factors, combined, were more important than price. Id. at 9. The RFP also provided that if TSA determined that making more than one award offered the best value to the agency, the agency would make multiple awards by product category. Id. at 8.

With regard to the equipment specification factor, the RFP provided for the evaluation of proposed configurations for each type of equipment, and informed offerors that configurations exceeding the solicitation's minimum requirements may be evaluated higher. Id. at 8. With regard to the production factor, the RFP provided for the evaluation of, among other things, the offeror's ability to fulfill large orders. Id. With regard to past performance, the RFP provided for the evaluation of an offeror's past performance based on the examples included in the offeror's proposal and upon information obtained from other sources. Id.

The agency received fourteen proposals, including Meadowgate's and NSC's, which were evaluated by the agency's technical evaluation team (TET).² After the initial evaluation, the agency established a competitive range consisting of ten proposals, including Meadowgate's and NSC's. Discussions were conducted, and revised proposals received. As relevant to this protest, Meadowgate's and NSC's revised proposals were evaluated for desktop and tablet computers as follows:

¹ Page numbers refer to the BATES numbers in the agency report.

² Proposals were rated as outstanding, good, acceptable or unacceptable under the equipment specification, warranty support, and production evaluation factors. See AR, Tab 2, Source Selection Plan, at 87-88. Under the past performance evaluation factor, offerors were rated as favorable, neutral, or unfavorable. The neutral rating was defined as including firms that lacked relevant past performance, as well as firms with past performance where the offeror failed to fulfill the contract requirements in a marginal way that had little or no impact on the contract requirements. Id. at 88. In contrast, an unfavorable rating reflected an offeror's past performance that did not demonstrate successful delivery of products, required substantial government intervention, and compromised the achievement of the contract requirements. Id.

	DESKTOP		TABLET	
	Meadowgate	NCS	Meadowgate	NCS
Equipment Specs.	Good	Good	Acceptable	Good
Warranty Support	Acceptable	Acceptable	Acceptable	Acceptable
Production	Outstanding	Good	Outstanding	Good
Past performance	Favorable	Neutral	Favorable	Neutral
Price	\$6,254,105	\$6,006,310	\$1,398,850	\$1,426,816

AR, Tab 21, Award Recommendation, at 516-517, 519.

The agency's adjectival ratings were supported by narrative explanations, which identified strengths, weaknesses, and deficiencies in the respective proposals. See AR, Tab 19, Consensus Technical Evaluation Report. For example, Meadowgate's outstanding ratings under the production factor for the desktop and tablet computers reflected the evaluators finding that Meadowgate's proposal of computer products made by Hewlett-Packard Company (HP) was a strength, because HP has worldwide manufacturing facilities and thus Meadowgate would be able to fulfill large manufacturing orders. Id. at 492.

The chairs of the TET and price evaluation team (PET) prepared award recommendations to the source selection authority (SSA). In this regard, they recommended making multiple awards for the various product categories. As relevant here, the TET and PET chairs recommended that NCS's proposal for the desktop and tablet computer categories reflected the best value to the agency. See AR, Tab 21, Award Recommendation, at 515-20. With respect to the award for the desktop computers, the chairs noted Meadowgate's higher scores under the less important production and past performance factors, but concluded NCS's lower price outweighed Meadowgate's technical advantage. Id. at 517. With respect to the tablet computers, the chairs noted NCS's higher rating under the most important equipment specifications factor and Meadowgate's higher ratings under the less important production and past performance factors. The chairs found that NCS's higher rating under the most important evaluation factor—equipment specifications—outweighed Meadowgate's slight price advantage.³ Id. at 519-20.

The SSA was briefed by the TET and PET chairs and he was provided with the evaluation teams' reports. AR, Tab 22, Selection Decision, at 528. The SSA concurred with their recommendations, deciding that making multiple awards was the best

³ Specifically, the evaluators found that NCS had offered better battery life and processor performance than Meadowgate. See AR, Tab 21, Award Recommendation, at 519.

value to the agency. Specifically, as relevant here, the SSA determined that award should be made to NCS for the desktop and tablet computers.

Award was made to NCS, and, following a debriefing, Meadowgate filed this protest.

DISCUSSION

Meadowgate objects to the neutral rating assigned to the awardee's past performance, arguing that the record shows that NCS had unfavorable past performance. In this regard, Meadowgate contends that, for two of NCS's identified contracts, the government had to intervene to ensure contract performance. See Protester's Comments at 4.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. A protester's mere disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11

Here, the record shows that the agency reasonably evaluated NCS's past performance. Specifically, the TET considered three examples of NCS's past performance.⁴ For one of the contracts, with the Department of the Navy, TSA obtained information directly from the Navy, which informed TSA that the Navy was "very satisfied" with NCS. AR, Tab 19, Consensus Technical Evaluation Report, at 495. For the other two contracts, the agency obtained information from the Past Performance Information Retrieval System (PPIRS). With respect to the first of these contracts, PPIRS indicated that the procuring agency was satisfied and "probably would award" to NCS again. Id. With respect to the second of these contracts, PPIRS indicated that the procuring agency was satisfied with NCS's performance in all categories but schedule. With respect to schedule, PPIRS indicated that government intervention had been required and that "no installs had been missed." Id.

The TET found that although NCS had some performance problems, the firm had been able to meet its contractual requirements. See AR, Tab 21, Award Recommendation, at 517. The TET assigned a neutral rating to NCS's past performance because the record indicated that NCS's past performance was essentially satisfactory but with some performance problems that had little or no impact on the contract requirements. This rating is consistent with the agency's definition of a neutral rating in its source selection plan. Although Meadowgate

⁴ Meadowgate does not challenge the relevance of these contracts.

generally disagrees with the rating assigned, it does not show that the agency unreasonably considered NCS's past performance.

Meadowgate also objects to the agency's cost/technical tradeoff decision in selecting NCS's proposal for award of the desktop and tablet computer product categories.⁵ Specifically, with regard to the desktop computers, Meadowgate complains that TSA failed to reasonably weigh the protester's higher technical ratings under the production and past performance factors when it selected NCS's desktop based on its lower price. In this regard, Meadowgate contends that TSA did not evaluate in accordance with the solicitation's best value award scheme, since the agency found that NCS and Meadowgate had submitted "equal technically rated" products.⁶ Protester's Comments at 2-3, citing Legal Memorandum at 17.

Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. Client Network Servs., Inc., B-297994, Apr. 28, 2006, 2006 CPD ¶ 79 at 9.

The record here does not support Meadowgate's contention that the agency's selection decision was inconsistent with the solicitation's best value award scheme and failed to adequately consider the technical merit of the protester's proposal. Although it is true that the agency's counsel stated in response to the protest that NCS's low-priced proposal for the desktop computers was selected for award because the firms' technical proposals were of equal merit, this post-award assertion is belied by the contemporaneous record. Specifically, both the TET and the SSA recognized Meadowgate's technical superiority under the production and past performance factors, but concluded that NCS's lower price outweighed Meadowgate's technical advantage. See AR, Tab 21, Award Recommendation, at 517;

⁵ Meadowgate also asserts that the SSA's selection decision for both the desktops and tablets is flawed because for these product categories the decision discusses the merits of the offerors' proposals vis-à-vis NCS's proposal. Meadowgate contends that this analysis presupposed that NCS was the awardee, without explanation for how NCS's proposal was selected in the first instance. We find no merit to this argument. There is no requirement that an agency selection decision discuss the agency's comparison of every offer received in order to document the selection of the awardee's. Rather, the documentation need only be sufficient to establish that the agency was aware of the relative merits and costs of the competing proposals and that the source selection was reasonably based. General Dynamics--Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8.

⁶ Meadowgate also states during the debriefing the agency stated that Meadowgate's and NCS's proposals for the desktop computers were deemed equal under the most important, equipment specifications factor.

Tab 22, Selection Decision, at 529. Although Meadowgate disagrees with the SSA's cost/technical decision, its arguments reflect nothing more than disagreement with the SSA's judgment and do not show it to be unreasonable.

With regard to the selection of NCS for award of the tablet computers, Meadowgate also complains that the SSA's selection decision focused only upon NCS's higher rating under the most important equipment specifications factor and the offerors' proposed prices. This complaint is also not supported by the record. The TET and SSA considered the relative technical merits of both firms' proposals, specifically recognizing Meadowgate's technical advantages under the production and past performance factors and NCS's advantage under the more important equipment specification factor. See AR, Tab 21, Award Recommendation, at 519-20; Tab 22, Selection Decision, at 530. The SSA concluded that, although Meadowgate offered a slightly lower price than NCS and was rated higher under the production and past performance factors, NCS's technical superiority under the most important equipment specification's factor outweighed Meadowgate's offered technical advantages and lower price. Specifically, the SSA determined that NCS offered superior battery life and a superior processor that outweighed Meadowgate's evaluated advantages. Meadowgate has not shown the SSA's judgment in this regard to be unreasonable.

We deny the protest.⁷

Lynn H. Gibson
General Counsel

⁷ The protester also asserts that the agency failed to follow several steps in its source selection plan. For example, Meadowgate asserts that individual evaluators did not fill out evaluation factor worksheets, or prepare a consensus using the team consensus factor worksheet. Supp. Protest at 3. These complaints--that the agency did not strictly adhere to the procedure set forth in the source selection plan for the evaluation of proposals--do not establish a valid basis to object to the agency's evaluation. An agency's source selection plan is an internal guide that does not give rights to parties; it is the RFP's evaluation scheme, not internal agency documents such as source selection plans, to which an agency is required to adhere in evaluating proposals. Sig Sauer, Inc., B-402339.3, July 23, 2010, 2010 CPD ¶ 184 at 6 n.9.