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Decision

Matter of: Trailboss Enterprises, Inc.

File: B-407093

Date: November 6, 2012

Traeger Machetanz, Esq., Jonathan A. DeMella, Esq., and Kate H. Kennedy, Esq., Oles Morrison Rinker & Baker LLP, for the protester.
Col. Mark S. Teskey, Carrie Fogle, Esq., and Capt. John Montgomery, Department of the Air Force, for the agency.
Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is sustained where a solicitation provided for a comparative qualitative evaluation of the technical factors, and the agency's evaluators and source selection official failed to document that it qualitatively assessed the relative merits of the offerors' respective technical approaches in evaluating the proposals and making the source selection decision.

DECISION

Trailboss Enterprises, Inc., of Anchorage, Alaska, protests the award of a contract to CAV International, Inc., of Greenville, South Carolina, under request for proposals (RFP) No. HTC711-12-R-R001, issued by the United States Transportation Command (TRANSCOM), for aerial delivery services. Trailboss challenges the agency's evaluation of its proposal and source selection decision.

We sustain the protest.

The RFP, issued on December 12, 2011, sought proposals to provide aerial delivery services for Joint Base Charleston, South Carolina; Dyess Air Force Base, Texas; Joint Base Lewis-McChord, Washington; and Fort Bragg, North Carolina. The RFP contemplated the award of a fixed-price contract for a 2-month base period with 4 option years.

Award was to be made on a best-value basis considering four evaluation factors: past performance, staffing, implementation, and price. The non-price factors were

weighted equally and, combined, were significantly more important than price. RFP at 46.

Under the past performance factor, offerors' references would be evaluated for relevance and for confidence based on the offeror's recent/relevant performance record. The possible past performance confidence ratings were substantial confidence, satisfactory confidence, limited confidence, no confidence and unknown confidence. An unknown confidence rating was assigned where an offeror had no or sparse relevant experience. Id. at 46-47.

The RFP identified the specific areas that were to be addressed and evaluated under the staffing and implementation technical factors. Id. at 45, 48. The RFP further stated here:

This evaluation provides an assessment of the offeror's capability to technically satisfy the Government's requirements. The ratings focus on the offerors' proposed strengths, weaknesses, and/or deficiencies.

Id. at 47. The RFP defined a strength as "an aspect of an offeror's proposal that has merit OR exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance." Id. The technical proposals were to be rated under these factors as blue/outstanding, purple/good, green/acceptable, yellow/marginal and red/unacceptable. Id. at 48. In addition, these proposals would be evaluated for risks associated with an offeror's proposed approach, including weaknesses in the proposed approach and the proposal itself. Id. at 49. The risk ratings were low, moderate, and high. Id.

Three offerors, including Trailboss¹ and CAV, responded to the RFP by the February 13, 2012, closing date. The proposals were evaluated by a three-member source selection evaluation board (SSEB). Trailboss' initial proposal received acceptable/low risk ratings for the staffing and implementation factors and CAV's initial proposal was rated unacceptable/high risk for these factors. All three proposals were included in the competitive range. Discussions were conducted during which CAV was advised of the aspects of its proposal that rendered it unacceptable. Final proposal revisions were received on May 30. The final evaluation results were as follows:

¹ Trailboss is the incumbent contractor for these services.

Offeror	Staffing	Implementation	Past Performance	Price
CAV	Green/Acceptable Low Risk	Green/Acceptable Low Risk	Unknown Confidence	\$14,510,754
Trailboss	Green/Acceptable Low Risk	Green/Acceptable Low Risk	Substantial Confidence	\$16,168,446
Third Offeror	Green/Acceptable Low Risk	Green/Acceptable Low Risk	Unknown Confidence	\$16,777,229

Agency Report (AR), Tab 20, SSEB Report, at 9.

The SSEB recommended award to CAV, finding that Trailboss' superior past performance was not worth the "considerabl[e]" price premium. See AR, Tab 20, SSEB Report, at 9-10. In making this recommendation, the SSEB noted only that all three proposals received a rating of green/acceptable with low risk for the staffing and implementation factors, and were considered "equal."

In selecting CAV's proposal as the best value, the source selection authority (SSA) stated that she evaluated all proposals and considered the recommendation of the SSEB. See AR, Tab 21, Source Selection Document, at 1. The SSA agreed with the SSEB that the advantage of awarding to Trailboss with its substantial confidence past performance rating, as compared to CAV's unknown confidence past performance, was not worth the 11 percent price premium. Id. at 2.

With regard to the staffing and implementation factors, the source selection statement indicated that all three proposals received the same acceptable/low risk rating and were considered "equal." Id. at 1. In this regard, the source selection statement reported that each proposal had "demonstrated [its] ability to meet the Staffing and Implementation requirements," and that the "SSEB did not identify strengths in any offeror's technical proposal[]." Id. The SSA further stated:

CAV's Staffing Plan demonstrates a clear understanding of the Performance Work Statement requirements. Their plan provides sufficient management/supervision coverage and adequate personnel to accomplish contract requirements at all four locations. CAV's Implementation Plan clearly demonstrates their ability to have a fully operational organization by the contract start date.

Id. at 2. The source selection statement provided no further discussion or comparison of CAV's proposal to Trailboss' proposal with regard to the staffing and implementation factors.

Trailboss contends that the agency's evaluation and source selection was unreasonable in not crediting Trailboss's proposal with any strengths, and that as a result, the SSA's best-value analysis based on the technical evaluation of its proposal as technically equal to CAV's proposal is flawed. Trailboss argues that the best-value analysis was flawed because the agency focused on the technical acceptability of the proposals, as opposed to technical distinctions between the proposals. In response, the agency argues that the source selection document reflects that the agency did not have any basis upon which to distinguish proposals under the staffing and implementation factors because no strengths were identified in either proposal.

In reviewing an agency's evaluation of proposals and source selection decision, we examine the supporting record to determine whether the decision was reasonable, and in accord with the evaluation criteria listed in the solicitation and applicable procurement laws and regulations. Cherry Rd. Techs.; Elec. Data Sys. Corp., B-296915 et al., Oct. 24, 2005, 2005 CPD ¶ 197 at 6. The agency must have adequate documentation to support its judgment. Southwest Marine, Inc.; Am. Sys. Eng'g Corp., B-265865.3, B-265865.4, Jan. 23, 1996, 96-1 CPD ¶ 56 at 10. Where, as here, the RFP contemplates that the relative merits of the proposals will be qualitatively compared, evaluation is not limited to determining whether a proposal is merely technically acceptable; rather, proposals should be further differentiated to distinguish their relative quality under each stated evaluation factor by considering the degree to which technically acceptable proposals exceed the stated minimum requirements or will better satisfy the agency's needs. Systems Research & Applications, Corp.; Booz Allen Hamilton, Inc., B-299818 et al., Sept. 6, 2007, 2008 CPD ¶ 28 at 24. In fact, we have long stated that evaluation ratings should be merely guides for intelligent decision making, see Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 11, and that therefore evaluators and SSAs should reasonably consider the underlying bases for ratings, including the advantages and disadvantages associated with the specific content of competing proposals, in a manner that is fair, equitable, and consistent with the terms of the solicitation. In this regard, FAR § 15.308 requires a documented decision based on a comparative assessment of proposals against all source selection criteria in the solicitation. Systems Research & Applications Corp.; Booz Allen Hamilton, Inc., supra.

Here, the record is devoid of any evidence that the SSEB and SSA meaningfully considered the technical or qualitative distinctions between the competing proposals under the technical evaluation factors. In this regard, except for the statements that neither proposal had any strengths or weaknesses, there is no evidence in the record of any comparative or qualitative evaluation of the merits of the proposals

under these factors by the SSEB or SSA.² In its protest, Trailboss points to various aspects of its proposal that it asserts should have been considered strengths in its proposal. While the agency report responding to these allegations asserts that these aspects were not strengths, this discussion is not supported by any contemporaneous evaluation documentation.³ We find that the contemporaneous record evidences that evaluation of Trailboss' and CAV's proposals under the staffing and implementation factors only considered whether the proposals were technically unacceptable or acceptable, and did not, as contemplated by the RFP, consider their relative qualitative merit.⁴

Where the agency undertakes a cost/technical tradeoff, adequate documentation requires more than just generalized statements of proposal equivalency where the record evidences the existence of relative differences in proposals. See LIS, Inc., B-400646.2, B-400646.3, Mar. 25, 2009, 2010 CPD ¶ 5 at 7. Source selection decisions that are devoid of substantive analysis or consideration of whether one proposal is superior to another are insufficient to demonstrate the reasonableness of the agency's decision. Id. Because the record here is devoid of any evidence that the SSEB or SSA considered the qualitative merits of the proposals under the staffing and implementation factors as required by the evaluation scheme, we find the evaluation of proposals and source selection decision to be unreasonable, and sustain the protest on this basis.⁵

² The record contains no individual evaluator worksheets or supporting documentation for the SSEB report with respect to the evaluation of the offerors' responses to technical factors; nor does the record contain any other meaningful discussion of the offerors' respective technical approaches. Our review shows that there were differences in technical approaches in CAV's and Trailboss' proposal responses to these technical factors.

³ A representative of our Office conducted an alternative dispute resolution conference with the parties, where he observed that the record did not contain adequate documentation to support the agency's determination that Trailboss' and CAV's proposals were equal under the staffing and implementation factors, but offered the agency the opportunity to provide testimony at a hearing to show the basis for this determination. The agency declined to take corrective action and stated that it saw no basis for a hearing because it thought its actions were reasonable and supported.

⁴ As indicated above, CAV's initial proposal was found unacceptable/high risk for these factors and after discussions, submitted a revised proposal that was rated acceptable/low risk.

⁵ While Trailboss also alleged that the agency must have conducted unequal discussions because CAV lowered its price after in its final proposal revision, there is no evidence to support this allegation.

We recommend that TRANSCOM perform a new evaluation consistent with this decision, reopen discussions, if necessary, and make a new source selection decision.⁶ If CAV is not selected for award, the agency should terminate CAV's contract and make award to the firm whose proposal is determined to represent the best value. We also recommend that the protester be reimbursed its costs of filing and pursuing its protest, including reasonable attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1) (2012). The protester's certified claim for costs, detailing time expended and costs incurred, must be submitted directly with the agency within 60 days of receiving this decision. 4 C.F.R § 21.8(f)(1).

The protest is sustained.

Lynn H. Gibson
General Counsel

⁶ In view of this recommendation, we do not address Trailboss' other allegations about the reasonableness of the source selection decision.