



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Global Protection Group

File: B-407221

Date: November 26, 2012

Micah Hoevelman for the protester.
Robert M. Elwell, Esq., Kristopher A. Fischer, Esq., and Martha E. Hulley, Esq.,
Department of the Navy, for the agency.
L. Dale Gipson, Esq., and Richard J. Marsden, Esq., Lanier Ford Shaver & Payne
P.C., for AQuate Corp., an intervenor.
Lois Hanshaw, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest contending that award decision was unreasonable because awardee's price was unrealistically low and the awardee lacked relevant past performance is denied, where solicitation did not require a realism analysis for this fixed-price contract and record shows that awardee possessed relevant past performance that agency reasonably evaluated.

DECISION

Global Protection Group, Inc. (GPGI), of San Antonio, Texas, protests the award of a contract to AQuate Corp., of Huntsville, Alabama, under request for proposals (RFP) N00033-12-R-2000, issued by the Department of the Navy for on-board security services for the Sea-Based X-Band Radar (SBX-1) vessel. GPGI contends that the award to AQuate was unreasonable because the firm's price was unrealistically low and the firm lacked relevant past performance.

We deny the protest.

The RFP sought a contractor to provide continuous security¹ for the SBX-1 while

¹ The RFP required that security services be provided 24 hours, 7 days a week, for 365 days a year, and that the contractor be able to sustain 58-day rotation schedules. RFP at 7.

the vessel is in port and out at sea. The RFP provided for the award of a fixed-price contract with some reimbursable elements for a base period of up to 12 months, with four 1-year options. RFP at 31. The RFP stated that award would be made on a lowest price, technically-acceptable basis, considering technical, past performance, and price factors. Id. at 73.

As relevant here, the RFP's price factor stated that an offeror's proposed price would be evaluated only to determine whether the price was fair and reasonable; a realism requirement was not included in the solicitation. Id. at 74. The past performance factor stated that the agency would consider the relevancy of each offeror's past performance for the past 5 years and the offeror's probability of meeting the solicitation requirements. Id. at 73. The RFP stated that the agency would consider various sources of past performance, including information available in databases, questionnaires, and interviews. Id. at 73-74.

The agency received proposals from GPGI and AQuate in response to the RFP. Agency Memorandum of Law at 5. AQuate's proposed price was \$11,993,454.63, while GPGI's proposed price was \$21,265,031.72. Agency Report (AR), Tab 9, Source Selection Decision Document, at 1. Both proposals were rated acceptable under the technical and past performance factors. Id. The agency made award to AQuate because it submitted the lowest priced, technically-acceptable proposal, and this protest followed.

GPGI contends that the award to AQuate was unreasonable because, according to GPGI, AQuate's price was unrealistically low and because the firm lacks relevant past performance.

GPGI's protest that AQuate's price is too low fails to state a valid basis of protest. Where, as here, the award of a fixed-price contract is contemplated, an agency is not required to perform a realism analysis unless the solicitation so requires. SAIC Computer Systems, B-258431.2, Mar. 13, 1995, 95-1 CPD ¶ 156, at 11-12. In this regard, there is no prohibition against a procuring agency's acceptance of low or below-cost offer under a solicitation for a fixed-priced contract. Wright Tool Co., B-276416, June 10, 1997, 97-1 CPD ¶ 210, at 3. Because the solicitation here did not require a realism analysis, GPGI's complaint that the agency should have performed one is not cognizable.²

² GPGI notes that Federal Acquisition Regulation (FAR) § 15.402(a)(3) identifies price evaluation techniques as "price analysis, cost analysis, and/or cost realism analysis to establish fair and reasonable price." However, this provision merely lists available techniques and does not mandate the evaluation of realism in a fixed-price contract setting.

GPGI next contends that AQuate lacked relevant past performance. However, the record does not support this contention. The agency was able to assess AQuate's past performance from multiple past performance data sheets, questionnaire responses, and information available in government databases. AR, Tab 7, Past Performance Evaluation Team Report, at 4-6. Based on this information, the agency reasonably determined that AQuate performed contracts that were relevant to the solicitation and recent; that the firm's performance on those contracts ranged from satisfactory to exceptional; and that the firm deserved an acceptable rating for past performance because the government had a reasonable expectation that AQuate would successfully perform the required effort. Id. at 6. We find the agency's assessment of AQuate's past performance to be a fair reflection of the record and to be in accordance with the solicitation's evaluation criteria. Although GPGI disagrees with the agency's judgment, it has not shown that judgment to be unreasonable.

The protest is denied.

Lynn H. Gibson
General Counsel