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## Decision

**Matter of:** Bahrain Maritime & Mercantile International BSC

**File:** B-407575.6

**Date:** July 29, 2014

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Thomas P. McLish, Esq., Robert K. Huffman, Esq., Joseph Whitehead, Esq., and Julia Lippman, Esq., Akin Gump Strauss Hauer & Feld LLP, for the protester. Elizabeth Amato, Esq., Defense Logistics Agency, for the agency. Jennifer D. Westfall-McGrail, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest objecting to agency's selection of a lower-rated, lower-priced proposal for award is denied where agency reasonably decided that technical advantages associated with protester's higher-rated, higher-priced proposal were not worth the price premium.

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### DECISION

Bahrain Maritime & Mercantile International BSC (BMMI), of the Kingdom of Bahrain, protests the award of a contract for full line food distribution for Southwest Asia, Zone 1 to Ocean Fair International Ship Chandleing, LLC (OFI), of Dubai, United Arab Emirates, under request for proposals (RFP) No. SPM300-11-R-0005, issued by the Defense Logistics Agency (DLA). The protester argues that the agency's best value tradeoff decision was flawed.

We deny the protest.

### BACKGROUND

This procurement has a lengthy history. The RFP, which contemplated the award of indefinite-delivery/indefinite-quantity prime vendor contracts to provide food and beverages to the military and other federally funded customers in each of two

zones, was originally issued on October 13, 2010.<sup>1</sup> Only the contract for Zone 1, covering customers in Bahrain, Qatar, and Saudi Arabia, is at issue in this protest. The solicitation provided for award of the Zone 1 contract to the offeror whose proposal was considered most advantageous to the government, price and non-price factors considered, with the non-price factors, when combined, of greater importance than price.

Non-price evaluation factors were as follows: (1) distribution system capability/quality assurance; (2) experience/past performance; (3) customer support/product availability; (4) socioeconomic consideration; (5) Ability One support; (6) DLA Mentoring Business Agreement; and (7) Civil Reserve Air Fleet/Voluntary Intermodal Sealift Agreement. The first two factors, which were of equal weight, were more important than the remaining factors, and factor (3) was more important than factors (4)-(7).<sup>2</sup> There were nine subfactors under the distribution system capability/quality assurance factor; four subfactors under the customer support/product availability factor; and, as discussed in greater detail below, four subfactors under the experience/past performance factor.<sup>3</sup>

After receiving and evaluating multiple proposals; establishing a competitive range that included proposals from the protester, OFI, and a third offeror; and conducting several rounds of discussions, DLA selected OFI to receive the Zone 1 contract. On October 5, 2012, BMMI filed a timely protest of the award with our Office. After the designated GAO attorney conducted an alternative dispute resolution (ADR) teleconference predicting that the protest was likely to be sustained, the agency notified our Office that it intended to take corrective action. Specifically, DLA advised that it planned to issue an amendment to the RFP clarifying the manner in which the experience/past performance factor would be evaluated; conduct a limited reevaluation; and reconsider its award decision in light of the results of the reevaluation. Upon receipt of the agency's notification, we dismissed the protest as academic. Bahrain Maritime & Mercantile International BSC, B-407575, B-407575.2, Jan. 8, 2013.

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<sup>1</sup> The contracts were to be for a 5-year period (a 24 month base period, plus two 18 month options).

<sup>2</sup> The solicitation provided that factors (4)-(7), which were of equal weight, would be ranked on a comparative basis among offerors.

<sup>3</sup> Factor 1 subfactors were (A) location and capacity, (B) resource availability, (C) airlift experience, (D) quality control, assurance and warehouse procedures, (E) inspection and sanitation procedures, (F) supplier selection procedures, (G) food defense, (H) surge and sustainment capability, and (I) key personnel. Subfactors (A)-(H) were of equal importance and significantly more important than subfactor (I). Factor 3 subfactors, which were of equal weight, were (A) customer service approach, (B) product sourcing, (C) ordering system, and (D) pipeline.

On February 15, 2013, the agency issued Amendment No. 0020 to the RFP, which revised solicitation provisions pertaining to the evaluation of offeror experience and past performance. BMMI protested the terms of the amendment to our Office, and, again, the assigned GAO attorney conducted an ADR teleconference predicting that the protest would be sustained. DLA responded by notifying our Office that it would take corrective action in response to the protest by further amending the RFP to clarify the basis under which offerors' past performance history would be evaluated, whereupon we dismissed the protest as academic. Bahrain Maritime & Mercantile International BSC, B-407575.3, May 23, 2013.

On July 12, 2013, the agency issued a final amendment to the RFP (No. 0022). The final version of the RFP provided for the evaluation of proposals under the experience/past performance factor based on four subfactors--(A) experience (size and complexity), (B) past performance, (C) socioeconomic considerations past performance, and (D) Ability One (formerly JWOD) support past performance--with the first two subfactors equal in importance and of greater weight than the latter two. Each proposal was to be assigned an overall integrated rating for the factor, to be derived by combining the proposal's ratings under the four subfactors noted above. In the foregoing connection, the solicitation, as amended, advised as follows:

Offerors that do not have records of relevant experience, past performance, socioeconomic past performance, and/or Ability One . . . past performance will receive a "Neutral" rating. . . . A "Neutral" rating is applicable to Sub Factors A, B, C, and D and may be used for the overall Experience/Past Performance factor. A neutral evaluation is one that neither rewards nor penalizes offerors without relevant past performance history. While a neutral evaluation will not affect an offeror's rating, it may affect the offeror's ranking if a significant number of the other offerors participating in the acquisition have past performance ratings either above or below satisfactory.<sup>4</sup>

Amend. No. 0022, at 13; RFP, as conformed, at 187.

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<sup>4</sup> Amendment No. 0022, which established a "neutral" rating for the experience subfactor, was not challenged; accordingly, we offer no view on the propriety of such an evaluation scheme. We also note that the source selection plan, as amended, provided for ratings of excellent, good, fair, poor, and neutral for subfactors B, C, and D. For subfactor A, experience, however, it provided for only ratings of excellent, good, or neutral. In other words, offerors with relevant experience could be rated favorably, but offerors lacking relevant experience could not be rated unfavorably under the subfactor.

Also of relevance to this protest, the RFP, as amended provided that in evaluating the relevance of offerors' experience, "consideration [would] be given to those aspects of an offeror's history which provide the most confidence that the offeror will satisfy the current procurement," including "similarity of service/support, dollar value, and complexity (estimated line items/SKUs, estimated average delivery stops per week, estimated average line items ordered per week, and estimated average delivery order dollar value." Amend. No. 0022, at 11; RFP, as conformed, at 186.

After receiving revised proposals from the offerors in response to Amendment No. 0022 and conducting further discussions, the agency rated the proposals of BMMI and OFI as follows:

	<b>BMMI</b>	<b>OFI</b>
<b>FACTOR I. Distribution System/Quality Assurance</b>	<b>E</b>	<b>G</b>
IA. Location & Capability	G	F
IB. Resource Availability	E	E
IC. Airlift Experience	E	E
ID. Quality Control, Assurance & Warehouse Procedures	E	E
IE. Inspection & Sanitation Procedures	E	G
IE1. Inspection Procedures	E	E
IE2. Sanitation Procedures	E	G
IF. Supplier Selection Procedures	E	E
IG. Food Defense	G	F
IH. Surge & Sustainment Capability	E	E
II. Key Personnel	E	E
<b>FACTOR II. Experience/Past Performance</b>	<b>G</b>	<b>N</b>
IIA. Experience (Size & Complexity)	E	N
IIB. Past Performance	G	N
IIC. Socioeconomic Considerations Past Performance	G	N
IID. Ability One Support Past Performance	P	N
<b>FACTOR III. Customer Support/Product Availability</b>	<b>E</b>	<b>E</b>
IIIA. Customer Service Approach	E	E
IIIB. Product Sourcing	E	E
IIIC. Ordering System	E	G
IIID. Pipeline	E	E
<b>FACTOR IV. Socioeconomic Considerations</b>	<b>3</b>	<b>2</b>
<b>FACTOR V. Ability One Support</b>	<b>1</b>	<b>1</b>
<b>FACTOR VI. DLA Mentoring Business Agreement</b>	<b>1</b>	<b>3</b>
<b>FACTOR VII. CRAF/VISA</b>	<b>1</b>	<b>2</b>
<b>OVERALL PROPOSAL RATING</b>	<b>E</b>	<b>G</b>

Agency Report at 16-17. Of relevance to the protest here, the evaluators found that OFI had no relevant experience (and thus deserved a neutral rating under that subfactor) because the dollar value of its prior contracts, even as combined, did not approach the dollar value of the effort solicited here.

While BMMI's overall technical rating was higher than OFI's, OFI's evaluated price was 9.32 percent lower than BMMI's (\$77,124,223 versus \$84,309,017). By decision of January 23, 2014, the source selection authority (SSA) determined that OFI's proposal represented the best value to the government. The contracting officer notified BMMI of OFI's selection on January 30.

BMMI protested to our Office on February 10, arguing, among other things, that in his tradeoff decision, the SSA had improperly treated OFI's rating of neutral under the experience/past performance factor as essentially equal to BMMI's rating of good. The agency subsequently notified us that it would take corrective action in response to the protest by canceling the award to OFI, reconsidering its best value tradeoff analysis, and making a new source selection decision, whereupon we dismissed the protest. Bahrain Maritime & Mercantile International BSC, B-407575.5, Feb. 26, 2014.

The SSA reconsidered his tradeoff analysis, and, by decision of April 23, 2014, again selected OFI for award. In comparing the protester's proposal with OFI's, the SSA found that while the former offered "a few more value added benefits" than the latter, these benefits were not significant enough to justify the price differential between the two proposals of 9.32 percent. Addendum to Source Selection Decision Document for Zone 1, Apr. 23, 2014, at 18. Specifically, regarding Factor I, the SSA explained as follows:

In Factor I, one of the most important factors, BMMI [deleted]. OFI will lease its Bahrain and Qatar facilities. So, BMMI has a lower performance risk in Bahrain, but the performance risk related to [deleted]. BMMI has VETCOM approved facilities and this saves the Government the time and expense of scheduling and conducting audits and confirms the highest level of sanitation required. OFI has a leased VETCOM approved facility in Qatar, but not Bahrain. As such, the time, cost, and risk are more favorable for BMMI in Bahrain, but equal for both companies in Qatar. In regard to a Food Defense Plan, BMMI is operating under a Food Defense Plan [;][deleted]; versus OFI, which has a plan in place but is not operating under it. This is considered a value added benefit because lower performance risk is associated with food defense plans that are already operationally proven.

Id. at 18-19.

Regarding Factor II, experience/past performance, the SSA noted BMMI's advantage as compared to OFI, which did not have relevant experience or past performance and thus received a "neutral" rating as provided by the solicitation. Specifically, the SSA noted:

In Factor II, the other most important factor, BMMI demonstrated relevant experience/past performance with contracts exceeding the size and complexity of the estimated requirements of the solicitation, wherein, most references rated them Good, and most socioeconomic goals were met. OFI has no relevant experience, which cannot be viewed favorable or unfavorable. This is considered a value added benefit because lower performance risk is associated with BMMI's experience/past performance. BMMI's experience/past performance indicates that it is likely to successfully perform the solicitation's requirement, while OFI's Neutral rating does not provide any indication whether it is or is not more likely to successfully perform the solicitation's requirement.

Id.

Overall, the SSA found that:

BMMI's proposal has a few benefits that result in a somewhat lower level of risk as compared with OFI's proposal. These benefits amount to value added benefits for BMMI, but in light of the strengths contained in the OFI proposal, it is my judgment that the differences are not enough to justify paying a 9.32% premium.

More significantly, OFI's proposal contains most of the same strengths that are identified in the BMMI proposal. In Factor I, one of the most important factors, both firms have substantial equipment and resources, regular successful experience performing airlifts, quality and warehousing procedures, comprehensive and sophisticated inspection procedures, formal supplier selection programs, the ability to exceed the contractual surge and sustainment requirements, and experienced key personnel. In Factor III, both firms have formal customer service programs, automated systems in place to track deliveries and accuracy of orders, capability of sourcing all of the items that were identified in the schedule of items or acceptable equivalent items, and proposed pipelines greater than the solicitation's estimated requirement. It is for this reason that I recommend that a 9.32% premium in price to award to BMMI is not supportable and OFI offers the best value to the Government.

Id.

On April 28, DLA notified the protester that it had awarded a contract to OFI. BMMI filed the instant protest with our Office on May 6.

## DISCUSSION

BMMI argues that in his cost/technical tradeoff decision, the SSA failed to give proper weight to the differences between the two proposals pertaining to experience and past performance. In particular, the protester contends that the SSA failed to consider the significance of OFI's lack of relevant experience on the likelihood of successful performance. The protester further argues that in his decision, the SSA sought to minimize other technical differences between the two proposals. BMMI also argues that the SSA failed to furnish a meaningful explanation for why the technical advantages associated with its proposal were not worth a price premium of 9.32 percent; the SSA's tradeoff analysis for the Zone 1 award is inconsistent with his Zone 2 analysis; and the agency essentially converted the basis for award of the Zone 1 contract from "best value" to "lowest-priced, technically acceptable."

In a best value procurement, such as this one, it is the function of the SSA to perform a price/technical tradeoff to determine whether one proposal's technical superiority is worth a higher price. MVM, Inc., B-403912.3, May 26, 2011, 2012 CPD ¶ 129 at 11. Even where price is the least important evaluation factor, an agency properly may select a lower-priced, lower-rated proposal if the agency reasonably concludes that the price premium involved in selecting a higher-rated, higher-priced proposal is not justified in light of the acceptable level of technical competence available at a lower price. General Dynamics--Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8. The extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. Id. Thus, a protester's disagreement with an agency's determinations as to the relative merits of competing proposals, or disagreement with its judgment as to which proposal offers the best value to the agency, do not establish that the evaluation or source selection was unreasonable. MVM, Inc., supra.

Here, the protester's complaints notwithstanding, the above-quoted excerpts from the SSD establish that the SSA was aware of the differences between the two proposals under the various evaluation factors, including OFI's lack of relevant experience, but decided that the price premium associated with an award to BMMI was not justified in light of the acceptable level of competence offered by OFI. While the protester clearly disagrees with the SSA's judgment as to whether the technical advantages associated with its proposal were worth a price differential of 9.32 percent, it has not demonstrated that the SSA's conclusion was irrational or inconsistent with the RFP's best value evaluation scheme.

Additionally, to the extent BMMI argues that the agency's Zone 1 selection decision was inconsistent with its Zone 2 tradeoff decision, we disagree since the underlying facts of the tradeoffs were fundamentally different. In this regard, under Zone 2, the agency selected a higher-rated proposal at a price premium of 6.35 percent. For Zone 1, however, the agency was unwilling to select BMMI's higher-rated proposal where the price premium was even greater at 9.32 percent. While the agency may have been willing to pay a 6.35 percent price premium for technical superiority under Zone 2, the Zone 1 award simply reflects that there was a limit to how much the agency was willing to pay given the particular benefits offered by BMMI.<sup>5</sup> We have no basis to question the reasonableness of the agency's decision.

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>5</sup> In its initial protest, BMMI also argued that (1) DLA had improperly rated OFI's experience as neutral, and (2) had improperly treated OFI's rating of neutral under the experience/past performance factor as essentially equal to BMMI's rating of good. The agency responded to these arguments in its report, and the protester did not take issue with, or otherwise seek to rebut, the agency's responses in its comments. Under such circumstances, we view the arguments as abandoned. TPMC-Energy Solutions Envtl. Servs. 2009, LLC, B-408343.2 et al., Aug. 23, 2013, 2013 CPD ¶ 215 at 8.