



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: R&D Computer Systems, LLC

File: B-407737

Date: January 23, 2013

Richard McGinnis for the protester.

Christine Simpson, Esq., Department of Health & Human Services, for the agency.

Linda C. Glass, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

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

DECISION

R&D Computer Systems, LLC, of Shawnee, Kansas, protests the issuance of a purchase order to CitiesDigital, Inc., of Hudson, Wisconsin, by the Department of Health & Human Services, Centers for Medicare and Medicaid Services (CMS), under request for quotations (RFQ) No. OIS-393-2012-0269-RAW for LaserFicheCompulink software support services. The protester challenges the agency's evaluation of CitiesDigital's past performance.

We deny the protest.

BACKGROUND

The RFQ, which was issued as a combined synopsis/solicitation on the FedBizOpps website, was set aside for small businesses. The RFQ provided for the issuance of a purchase order to an authorized LaserFiche dealer for software support services in 10 CMS regional offices.¹ See Statement of Work at 2. Vendors were informed

¹ LaserFiche is a proprietary, commercial-off-the-shelf software product that is used in CMS's regional offices. Statement of Work at 2.

that the order would be issued on a best value basis considering the following factors: technical understanding and approach; personnel qualifications; past performance; management plan; and price.

R&D and CitiesDigital (the incumbent) submitted quotations in response to the RFQ, which were evaluated by an information technology (IT) specialist in the agency's New York Regional Office. Agency Report (AR), Tab 8, Decl. of IT Specialist, at 1. CitiesDigital's \$61,848 quotation was considered to be slightly superior to R&D's higher-priced \$63,931 quotation. Id. As relevant here, HHS evaluated CitiesDigital's past performance as excellent. AR, Tab 6, Technical Evaluation/Award Recommendation, at 1. The purchase order was issued to CitiesDigital, and this protest followed.

DISCUSSION

The protester challenges the agency's evaluation of CitiesDigital's past performance, arguing that CitiesDigital's performance of the prior purchase order was not acceptable. Specifically, the protester contends that CitiesDigital did not provide onsite installation and training in the regions as was required.

The agency responds that its evaluation of CitiesDigital's past performance was based upon the personal knowledge of the technical evaluator, who was responsible for the annual procurement of services supporting the LaserFiche software in all regional offices. AR, Tab 8, Decl. of IT Specialist, at 1. The evaluator states that under the prior order CitiesDigital provided excellent technical support. Id. With respect to CitiesDigital not performing onsite installation and training, the evaluator states that, during performance of the previous order, it was his decision to allow CitiesDigital to perform the installation and training remotely. Id. at 2. He states that CitiesDigital successfully performed these requirements with "great expertise and flexibility that allowed CMS to successfully complete the major goal of the [Statement of Work] to implement electronic records management while not disrupting other technical and program work scheduled throughout the [regional offices] during that timeframe. . . ." Id. The evaluator also states that he advised the regional offices that they could request onsite training and that in fact the Chicago regional office requested and received onsite training by CitiesDigital. Id.

In reviewing a protest challenging an agency's past performance evaluation, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Ostrom Painting & Sandblasting, Inc., B-285244, July 18, 2000, 2000 CPD ¶ 132 at 4. A protester's mere disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluator's 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's evaluation of CitiesDigital's past performance was reasonable. That is, the agency's judgment was based upon its own experience with CitiesDigital's performance of the prior order, which the agency found to be excellent. In this regard, the protester does not argue that CitiesDigital performed poorly under the prior order. Rather, R&D's complaint is that the agency modified the prior order to allow CitiesDigital to perform installation and training remotely at some of the regional offices. See Rebuttal Comments at 2. This does not show, however, that the agency unreasonably found CitiesDigital's performance of the order, as modified, to be excellent. To the extent the protester is complaining that CMS modified CitiesDigital's prior order, this concern involves a matter of contract administration over which we generally do not exercise bid protest jurisdiction; issues of contract administration are within the discretion of the contracting agency. Bid Protest Regulations, 4 C.F.R. § 21.5(a) (2012).

The protest is denied.²

Susan A. Poling
General Counsel

² The protester also argues that had it known that onsite training was not required; its quotation would have been more competitive. Comments at 1. There is no merit to this contention, however. The RFQ required vendors to provide their price for providing onsite training and installation for each regional office, and the record shows that CitiesDigital's quotation did so. AR, Tab 3, CitiesDigital's Quotation, at 8.