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Decision

Matter of: CEdge Software Consultants LLC

File: B-408203

Date: July 19, 2013

Ryan K. Manger, Esq., Manger Law LLC, for the protester.
S. Lane Tucker, Esq., Steel Rives LLP, for Vista Technical Services, LLC, the intervenor.
Capt. George P. Farley, Department of the Army, for the agency.
K. Nicole Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's decision not to select protester's proposal for award is denied, where the proposal was reasonably evaluated as having weaknesses, discussions were not misleading, and the best value award decision was reasonable.

DECISION

CEdge Software Consultants LLC of St. Louis, Missouri, protests the award of a contract to Vista Technical Services, LLC (VTS) of Anchorage, Alaska, by the Army Contracting Command, Rock Island, IL, under request for proposals (RFP) W52P1J-13-R-5003, for information technology (IT) services. CEdge argues that the agency misevaluated its proposal, utilized unstated evaluation factors that favored the awardee, held misleading discussions, and made an unreasonable best value award decision.

We deny the protest.

BACKGROUND

The RFP, issued on November 27, 2012, as a competitive 8(a) set-aside, contemplated the award of a fixed-price contract for IT services in support of the Joint Munitions Command (JMC) located at Rock Island, Illinois. The solicitation requirements, which were set forth in a performance work statement (PWS), covered a wide range of services including: conference room support, hand receipt

administration (property accountability), loan pool program management, mission server database administration, video teleconference (VTC) facilitation, and application support services. RFP at 3. The RFP provided for award of a contract with a 1-year base period, plus two 1-year option periods.

Award was to be made on a best value basis considering the following factors: technical/management approach, past performance and price. RFP at 22. The RFP established the technical factor as significantly more important than past performance and past performance as slightly more important than price. Id.

The RFP identified four equally weighted subfactors under the technical/management factor: (1) staffing plan; (2) technical approach; (3) quality control/quality assurance; and (4) transition plan. RFP at 11. Within each subfactor, the RFP required offerors to detail how they would meet the requirements set forth in the PWS. For example, under the staffing plan subfactor, offerors were to identify their “proposed number of personnel, skills, experience, qualifications and availability of the resources to be employed on this contract.” Id. Under the technical approach subfactor, offerors were to describe how they would support the day-to-day operations required in the PWS and handle other situations as they arise. RFP at 12. Additionally, under this subfactor, offerors were to describe how they would handle various technical scenarios set forth in the RFP. Id.

The RFP contemplated a combined technical/risk rating scheme, and established color and adjectival ratings for the technical/management approach subfactors in order to “reflect the degree to which the offeror’s proposed approach meets or does not meet the minimum performance or capability requirements (factors or subfactors, when established) through an assessment of the strengths, weaknesses, deficiencies, and risks of the proposal.”¹ Id.

Under the past performance factor, the RFP required offerors to provide past performance references and, based on the offeror’s record of relevant past and current contract performance, the agency would assess the degree of confidence that an offeror will successfully meet the solicitation requirements. RFP at 16. Offerors were required to provide a number of details regarding the contract references, including the contract award value, to be used in the assessment. RFP at 17. In this regard, a rating of very relevant, relevant, somewhat relevant, or not relevant was to be assigned to the past performance information. RFP at 26. As it pertains to this protest, the RFP defined somewhat relevant as “[p]resent/past performance effort involved some of the scope and magnitude of effort and

¹ Proposals were evaluated under the technical/management approach factor and subfactors as blue/outstanding, purple/good, green/acceptable, yellow/marginal, and red/unacceptable. RFP at 24.

complexities this solicitation requires.” Id. An offeror’s past performance on relevant contracts would be rated as substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. Id.

The agency received five proposals, including those from CEdge and VTS, by the RFP’s January 8, 2013 closing date. Based on an initial review of the proposals, the agency’s technical evaluation board (TEB) assigned weaknesses and deficiencies to each offeror. Contracting Officer’s Statement at 2. The agency opened discussions with all offerors on February 5, 2013. Discussions closed on February 22, 2013 and the agency requested best and final offers by February 25, 2013. The agency reevaluated all final proposal submissions and assigned adjectival rankings for each factor.

The protester received an overall technical factor score of yellow/marginal, and a past performance score of somewhat relevant with satisfactory confidence. AR, Tab 10, Source Selection Decision Document, at 5, 9-10. CEdge’s total evaluated price was \$6,402,942.27. Id. at 12. VTS received a technical factor score of purple/good, and a past performance score of relevant to very relevant and satisfactory confidence. Id. at 4, 8. VTS’s total evaluated price was \$9,102,321.30. Id. at 12.

The agency determined that VTS represented the overall best value to the agency, and award was made to VTS on March 28, 2013. Specifically, the agency found that the awardee had a better understanding of the requirements, the best technical approach and, posed the least amount of risk to the government. As a result, the agency concluded that the evaluation results supported a decision to pay VTS’s higher price. Upon learning of the award decision, and after receiving a debriefing, CEdge filed this protest.

DISCUSSION

The protester raises multiple objections to the award of the contract to VTS. In particular, the protester challenges the evaluations of proposals under the technical and past performance factors, asserts that the agency failed to conduct meaningful discussions, and finds fault with the agency’s best value tradeoff decision. Although our decision does not individually address each and every allegation, we have fully considered all of the protester’s arguments and find no basis to sustain its protest.

Technical/Management Evaluation

The protester contends that the agency improperly assigned its proposal weaknesses under the staffing plan and technical approach subfactors, resulting in

an unfair yellow/marginal overall rating for the technical/management factor.² The agency argues that the rating appropriately reflected weaknesses identified in CEdge's proposal. AR at 5. Generally speaking, the agency justifies the overall rating based on its conclusion that CEdge's proposal contained confusing or incomplete information, indicating that CEdge did not understand the requirements of the RFP. AR at 5-6.

The evaluation of technical proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method for accommodating them. Visual Connections, LLC, B-407625, Dec. 31, 2012, 2013 CPD ¶ 18 at 3. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. Id. at 4. In this case, we find that the agency's evaluation was reasonable, and that the protester's arguments represent little more than disagreement with the agency's conclusions.

Staffing Plan Subfactor

The agency identified five weaknesses with CEdge's staffing plan, and assigned CEdge a yellow rating for this subfactor. For example, the agency assigned a weakness based on the protester's failure to properly explain the function of its proposed desktop support position. AR, Tab 8, Final Technical Evaluation of CEdge, at 6. The record reflects that CEdge identified the desktop support position twice in its staffing matrix, but failed to provide a job description for the position in its final proposal. AR at 5 and AR, Tab 7, Final Proposal Revision of CEdge, at 10. CEdge maintains that the additional position helps reduce risk, saves money and avoids future modifications to personnel, and should have been viewed as an innovative approach. As a result, CEdge contends the position should have resulted in the assessment of a strength. Based on our review of the record, we agree with the agency's conclusion that without an explanation in the proposal of the skills, experience, and qualifications of the position, as required by the solicitation, it was

² The protester also argues that it should have received higher than green/acceptable ratings for the quality control/quality assurance and transition plan subfactors. According to CEdge, these ratings were unreasonable because its proposal had no identified weaknesses and, in the protester's view, presented low to very low risk to the agency. Protest at 22. The solicitation, however, did not establish that a proposal without identified weaknesses would receive the highest possible score; the protester's challenge otherwise reflects a lack of understanding of the evaluation scheme. Visual Connections, LLC supra at 4.

reasonable to assess a weakness in this area. It is an offeror's responsibility to submit an adequately written proposal with sufficient detail to demonstrate an understanding of, and ability to meet, solicitation requirements. Phoenix Mgmt. Inc., B-299477, May 16, 2007, 2007 CPD ¶ 95 at 6.

A second weakness stemmed from the agency's conclusion that CEdge proposed an unnecessarily high level of staffing for the loan pool program and IT property accountability functions. AR, Tab 8, Final Technical Evaluation of CEdge, at 6. The record reflects that during discussions, the agency advised CEdge that its staffing for the conference room and IT property accountability functions (a total of [DELETED] Full Time Equivalents (FTEs)) was insufficient. Contracting Officer's Statement at 4. CEdge responded by increasing its staffing for these functions to [DELETED] FTEs. Protest at 11. The agency evaluated the revised staffing approach as a weakness finding that the proposed staffing levels for the loan pool program and IT property accountability were "too excessive given the list of items in the Loan Pool inventory." AR, Tab 8, Final Technical Evaluation of CEdge, at 6.

The protester asserts that its proposed staffing would provide a benefit to the agency by ensuring that dedicated resources are available for these areas. The protester also argues that the agency should not have assigned a weakness where the offer exceeds the minimum requirements. Protest at 11. The agency concluded, however, that "the over-staffing meant that CEdge did not really understand how to handle these PWS tasks, had not carefully reviewed the supporting technical documentation, and simply assigned extra FTEs to these positions in response to the Agency's discussion item on this issue." AR at 6. The contracting officer noted that CEdge did not explain the need for the increased support in its proposal, and, had it provided an explanation, it might have been able to justify its approach. CO Statement at 5. Our review of the record leads us to conclude that the agency reasonably assessed a weakness for CEdge's failure to submit "an adequately written proposal with sufficient detail to demonstrate an understanding of, and ability to meet, solicitation requirements." Phoenix Mgmt., Inc., supra at 6.

Technical Approach Subfactor

The agency identified eight weaknesses under the technical approach subfactor, and assigned CEdge a yellow/marginal rating. Contracting Officer's Statement at 8-13. For example, the PWS required "an Army-approved electronic conference room scheduling system." RFP at 34. CEdge, however, offered to "research and evaluate off-the-shelf products and make recommendations to acquire a program to store, schedule, generate reports and provide other options which [the agency] may need." AR, Tab 7, Final Proposal Revision of CEdge, at 29. Since the solicitation required an electronic conference room scheduling system, and CEdge proposed only to research and evaluate systems and make recommendations, we conclude the agency reasonably assigned CEdge a weakness for failing to meet the requirements of the PWS.

As a related matter, the agency assigned an additional weakness based on CEdge's failure to adequately address the need for an electronic scheduling system for the agency's conference rooms. The agency understood CEdge as proposing to use a [DELETED] to gather information required for scheduling VTCs, in lieu of an electronic scheduling system. AR, Tab 8, Final Technical Evaluation of CEdge, at 9. In this regard, CEdge's proposal indicated that it "will gather as much information as possible, in reference to the [DELETED], which will be used by the CEdge team to disseminate all required administrative and technical information needed to correctly schedule and provision the conference facilities." Id.

The TEB noted that [DELETED] are not part of the agency's scheduling process, that the use of [DELETED] indicated a lack of understanding, and that the use of [DELETED] was no substitute for an electronic scheduling system. Id. The protester argues that the use of [DELETED] is a best practice and that the evaluation reflects a bias toward the incumbent, since it was not possible for CEdge to know that [DELETED] were not part of JMC's process. Protest at 17. In our view, CEdge's arguments are without merit. The PWS here clearly set forth the requirement for an electronic scheduling system, not the use of [DELETED]. RFP at 34.

Unstated Evaluation Criteria

CEdge also contends that the agency utilized unstated evaluation criteria favoring VTS, a sister company of the incumbent contractor. To the extent the protester argues that VTS had an unfair advantage due to its status as a corporate entity related to the incumbent contractor, there is no support for this contention in the record.

In this regard, CEdge argues that VTS's sister company had been performing the incumbent contract requirements, and thus had an advantage because it knew the processes that would receive agency approval. It is well settled, however, that an offeror may possess unique information, advantages, and capabilities due to its prior experience under a government contract, including performance as the incumbent contractor. Our Office has held that the government is not required to equalize competition to compensate for such an advantage, unless there is evidence of preferential treatment or other improper action. See FAR § 9.505-2(a)(3); CACL, Inc.-Fed., B-403064.2, Jan. 28, 2011, 2011 CPD ¶ 31 at 10; MASAI Tech. Corp., B-298880.3, B-298880.4, Sept. 10, 2007, 2007 CPD ¶ 179 at 8. The existence of an advantage, in and of itself, does not constitute preferential treatment by the agency, nor is such a normally occurring advantage necessarily unfair. Council for Adult & Experiential Learning, B-299798.2, Aug. 28, 2007, 2007 CPD ¶ 151 at 6; Government Bus. Servs. Group, B-287052 et al., Mar. 27, 2001, 2001 CPD ¶ 58 at 10.

Meaningful Discussions

According to CEdge, the agency failed to engage in meaningful discussions regarding its staffing approach.³ Protest at 19. Essentially, the protester argues that the agency required a specific number of personnel to support the loan pool program and IT property accountability functions, but chose not to reveal the specific number to the protester during discussions. Id. at 20.

As previously explained, the agency advised CEdge during discussions that its plan to use help desk staff to cover the loan pool program and IT property accountability functions constituted a weakness because the level of support was too low. Contracting Officer's Statement at 4. In response, CEdge added additional staff, but the agency found that the proposed staffing in the final proposal was excessive. AR, Tab 8, Final Technical Evaluation of CEdge, at 6.

The record here does not support the assertion that the agency conducted misleading discussions. The fact that the agency identified CEdge's initial staffing level as too low, and its revised staffing level as excessive, does not demonstrate that the agency required a specific staffing level. As the agency explains, it did not require a "magic number" of FTEs to provide support for the functions at issue, rather, the protester was free to propose whatever labor mix it deemed appropriate. Contracting Officer's Statement at 15. In this regard, the contracting officer notes that each offeror proposed a slightly different mix of labor types and quantities, and that "[a] higher-skilled, higher paid employee might have been able to provide more support, and thus, could have made up a larger deficit in FTE strength." Id. The requirement that discussions be meaningful does not obligate an agency to spoon-feed an offeror. Insignia-Spectrum, LLC, B-406963.2, Sept. 19, 2012, 2012 CPD ¶ 304 at 5. That is, in order for discussions to be meaningful, the agency need only lead an offeror into the areas of its proposal requiring amplification or revision. Id. Since the agency led CEdge to the area of its staffing concerns, we have no basis to question the propriety of the agency's discussions.

³ In addition to staffing issues, the protester complains that the written debriefing listed several weaknesses that were not addressed during discussions. Id. at 20. The record shows, however, that these weaknesses arise from information that CEdge added to its proposal after discussions had concluded. AR, Tab 7, Final Proposal Revision of CEdge, 28-31. As a result, concerns about these matters could not have been part of the discussion process. Where proposal defects are first introduced either in a response to discussions or in a post-discussion proposal revision, an agency has no duty to reopen discussions or conduct additional rounds of discussions. Raytheon Company, B-403110.3, April 26, 2011, 2011 CPD ¶ 96 at 7.

Past Performance Evaluation

The protester also argues that the agency improperly assessed the relevance of its past performance by not giving it credit for prior performance that CEdge argues was similar in scope to the requirements contemplated by the RFP. Protest at 20.

Where an agency has considered reasonably available and relevant past performance information, its judgments regarding the relative merits of competing offerors' past performance are primarily matters within the contracting agency's discretion; the protester's disagreement with such judgments does not establish a basis for our Office to sustain a protest. Exelis Systems Corporation, B-407111.5, et al., May 20, 2013, 2013 CPD ¶ 123 at 11.

CEdge received an overall past performance relevancy rating of "somewhat relevant," defined as "present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires." RFP at 26. The protester argues that its references involved much more than "some" of the scope and magnitude of efforts and complexities required by the solicitation.⁴ Protest at 20. In this regard, the protester argues that it, with its major subcontractor, [DELETED], had past performance that covered all the task areas in the PWS. Protest at 21. For example, according to the protester, CEdge provided software

⁴ The RFP provided evaluation criteria to be used in rating past performance, including criteria for rating the relevancy of past efforts. As is most relevant here, the RFP provided that:

The relevancy of the past performance information will be determined as follows:

- a. Very Relevant: Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires.
- b. Relevant: Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires.
- c. Somewhat Relevant: Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires.
- d. Not Relevant: Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires.

RFP at 25-26.

support services very similar to the services required by the agency, under a contract with a commercial retailer of photographic equipment, and [DELETED] provided a full range of IT services to the United States Central Command under a contract with the Army. Id. at 22.

The record includes a comprehensive ten-page review of CEdge's past performance, including a description of each contract reference for CEdge and [DELETED] as well as a discussion of the relevance of each contract. AR, Tab 9, Final Past Performance Evaluation of CEdge. The agency explains, and the record reflects, that compared with the current solicitation, the references submitted for CEdge were smaller in scope and dollar amount, and that the [DELETED] references, although larger in dollar amount, involved a somewhat different scope of activities. Contracting Officer's Statement at 17. For example, the contracts referenced for CEdge were valued between \$247,000 and \$873,000. AR, Tab 9, Final Past Performance Evaluation of CEdge, at 4-6. CEdge's total evaluated price for this solicitation was \$6,402,942.27. AR, Tab 10, Source Selection Decision Document, at 12. Thus, while it may be true that CEdge and/or [DELETED] "covered all the task areas in the PWS," the relevance rating for CEdge's past performance turned largely on the magnitude of its prior efforts, and the nature of the work performed. Where CEdge's protest fails to meaningfully address these points, we have no basis to question the reasonableness of the agency's evaluation. The evaluation of an offeror's past performance is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method for accommodating them, and we will not substitute our judgment for reasonably based past performance ratings. MFM Lamey Group, LLC, B-402377, Mar. 25, 2010, 2010 CPD ¶ 81 at 10.

Best Value Determination

Finally, CEdge challenges the agency's best value determination, asserting that the agency did not reasonably consider its \$2.7 million price advantage when making its award decision. Protest at 27.

In reviewing protests of allegedly flawed "best value" determinations, our Office will examine the record to determine whether the agency's judgments were reasonable and consistent with the solicitation's stated evaluation criteria and applicable procurement laws. TMM Investments, Ltd., B-402016, Dec. 23, 2009, 2009 CPD ¶ 263 at 4. Where, as here, a solicitation provides that technical factors are more important than price, source selection officials have broad discretion in determining whether one proposal's technical superiority is worth its higher price, so long as the agency's decision is reasonable, consistent with the solicitation's stated criteria, and adequately documented. Id. at 4-5.

The record indicates that the best value decision here was reasonable and properly documented. The source selection decision document clearly shows that price was

considered, and it includes an explanation in support of the award to VTS, the higher-priced and technically superior offeror. AR, Tab 10, Source Selection Decision Document, at 14-17. The agency concluded that an award to VTS was in its best interest as it posed the least amount of risk to the agency. For example, the agency found that the awardee had numerous strengths, no weaknesses, a better understanding of the requirements than the other offerors, and offered the best technical approach. Based on the perceived technical advantages of VTS's proposal, and the relatively fewer advantages offered by the other proposals, the agency was willing to pay a higher price for award to VTS to increase the probability of successful performance and assure that the government would obtain a good solution. Id. at 15-16. CEdge's ultimate disagreement with the agency's decision does not show it to be unreasonable.

The protest is denied.

Susan A. Poling
General Counsel