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Decision

Matter of: TeleCommunication Systems, Inc.

File: B-408269.2

Date: December 13, 2013

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Roger A. Hipp, Esq., Department of Homeland Security, 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 evaluation of protester's quotation and the best value determination is denied where the record shows that the evaluation was reasonable and supported by the record.

DECISION

TeleCommunication Systems, Inc. (TCS) of Annapolis, Maryland, protests the establishment of a blanket purchase agreement (BPA) with iSYS, LLC, of McLean, Virginia, under request for quotations (RFQ) No. HSHQDC-13-Q-00011, issued by the Enterprise Acquisitions Division of the Department of Homeland Security (DHS) for a comprehensive commercial cellular wireless managed services solution, enabling DHS to access multiple commercial cellular wireless carriers and thereby ensure maximum coverage. TCS contends that the evaluation of its quotation was flawed and that the best value trade-off decision is unsupported by the record.

We deny the protest.

BACKGROUND

The RFQ, issued November 29, 2012, to General Services Administration, federal supply schedule contractors under Federal Acquisition Regulation part 8.4, contemplated the establishment of a single BPA with fixed-price, time-and-materials, and hybrid fixed-price/time-and-materials purchase orders. Protest at 4. The BPA,

has a 1-year base period of performance, plus four 1-year options, and is for comprehensive commercial cellular wireless managed services, enabling access to multiple commercial cellular carriers, to include managed services, a web portal for device ordering and management, cellular wireless equipment and devices, cellular and data service, mobile device management, project management, services to enhance in-building cellular coverage, service desk services and other optional services. Agency Report (AR) at 2.

The RFQ provided for establishment of the BPA on a best-value basis considering price as well as the following seven non-price factors (listed in descending order of importance): (1) performance management and accountability; (2) technical approach and understanding; (3) management approach; (4) portal solution demonstration; (5) corporate experience; (6) past performance; and (7) small business participation. RFQ at 71. According to the RFQ, the non-price factors, when combined, were considered to be significantly more important than price. Id.

Under the first factor, performance management and accountability, DHS was to evaluate the extent to which a vendor demonstrated experience and understanding of performance management through the submission of a performance management accountability plan that describes how the vendor will measure, assess, report and manage service level compliance and performance execution. Id. at 72. Evaluators were to also consider the extent to which service levels meet all requirements in the performance work statement (PWS) and the vendor demonstrates an ability to reduce program costs and find program efficiencies. Id.

The second factor, technical approach and understanding, focused on a vendor's ability to demonstrate and describe the extent to which the vendor is able to meet all core requirements, set out in section 2.1 of the PWS, and all optional requirements, set out in section 2.2 of the PWS. Id.

Under the third factor, management approach, DHS was to evaluate a vendor's approach to teaming and subcontract management; explanation of its escalation and governance process as it relates to the requirements in the PWS; methods for identifying, tracking and reporting risks associated with its proposed solution; description of how it will manage cost, schedule and performance status with its proposed solution; description of its approach for continuously improving the management processes and procedures used to achieve the outcomes in the PWS and how the approach will be integrated throughout all management activities; and whether or not a vendor submits its proposed draft program management and transition management plans as part of its written technical quotation and whether the plans comply with the PWS requirements. Id. at 73.¹

¹ The protester does not challenge its evaluation under factors 4-8, and, for the sake of brevity, we are not including descriptions of those factors in this decision.

DHS received 8 quotes in response to the RFQ, and established the BPA with iSYS on April 15, 2013. AR at 2. TCS filed an initial protest with our Office on April 29, 2013. In response, DHS indicated that it would take corrective action by reevaluating TCS's quotation. We dismissed the protest as academic. TeleCommunication Systems, Inc., B-408269, May 24, 2013.

On May 29, DHS reconvened the technical evaluation team (TET) to begin the reevaluation process. Id. at 3. The agency documented the final reevaluation with a revised consensus report, reflecting the following ratings for TCS and iSYS:

Evaluation Factor	TCS	iSYS
(1) Performance Management and Accountability	Good	Superior
(2) Technical Approach and Understanding	Good	Good
(3) Management Approach	Satisfactory	Satisfactory
(4) Portal Solution Demonstration	Good	Superior
(5) Corporate Experience	Satisfactory	Good
(6) Past Performance	Very Good	Exceptional
(7) Small Business Participation	Acceptable	Acceptable
(8) Price	\$59,203,198	\$65,062,206

Id.²

The record reflects that the assigned adjectival ratings were supported by narratives identifying the vendors' respective strengths, weaknesses, and deficiencies. AR, Tab 10, Technical Evaluation Report at 82. The contracting officer prepared a new best value recommendation based on the results of the reevaluation. AR at 3. Considering the recommendations of the evaluation teams and the contracting officer, the selection official made a best value decision, concluding that the technical benefits of iSYS's quote justified the firm's price premium. Id.

DHS notified TCS of the new best value selection decision on August 15, and provided TCS with a brief explanation of the decision on August 21. Id. This protest followed.

² As relevant to this protest, the adjectival ratings ranged from "superior" to "unacceptable." AR, Tab 4, Evaluation Plan at 17.

DISCUSSION

TCS raises numerous objections to DHS's technical evaluation and source selection decision. According to TCS, DHS's evaluation was unreasonable and inconsistent with the terms of the solicitation because the evaluators ignored areas where TCS's proposed technical approach exceeded the RFQ requirements under factors 1 and 2; unreasonably identified weaknesses in TCS's quotation under factors 1 and 2; failed to follow a rational rating scheme, and unreasonably downgraded TCS's quotation under factor 3. TCS also argues the best value trade-off decision was flawed because it was based on an unreasonable evaluation. While our decision does not individually address each and every allegation, we have fully considered all of TCS's arguments and find no basis to sustain the protest.

Technical Evaluation

The evaluation of proposals or quotations is a matter within the discretion of the contracting agency. See Carson Helicopter Servs., Inc., B-299720, B-299720.2, July 30, 2007, 2007 CPD ¶ 142 at 5. In reviewing an agency's evaluation in a federal supply schedule competitive acquisition, we will not reevaluate quotations, but will examine the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation. Energy Engineering & Consulting Services, LLC, B-407605, Jan. 15, 2013, 2013 CPD ¶ 33 at 3. It is a vendor's burden to submit an adequately written quotation, and the vendor's disagreement with an unfavorable rating does not establish that the evaluation was unreasonable. Id. An agency is not required to address in the evaluation documents each and every feature asserted to be advantageous. See Consolidated Eng'g Serv., Inc., B-279565.2, B-279565.3, June 26, 1998, 99-1 CPD ¶ 75 at 5.

Here, as a general matter, although TCS argues that DHS's evaluation findings were unreasonable and unsupported, TCS's allegations are without merit. The record reflects DHS prepared a detailed record of its evaluation and source selection decision, showing that it evaluated the relative merits of the quotations and assessed ratings consistent with the terms of the RFQ. While the source selection decision document (SSDD) may not have discussed each and every asserted strength and weakness, as TCS would have liked, the record demonstrates that the TET and source selection decision authority considered all available information, and issued a well-reasoned and rational evaluation report and selection decision, highlighting key discriminators among the quotations.

For example, TCS argues it should have earned a strength under factor 1 for its invoice x-ray system, which "automatically performs line-item-by-line-item validation against the contract terms and conditions stored in its database. The individual line items [are then] compared to the service inventory, contract rates, and previous month's charges stored in the TCS Cellular Wireless Managed Services (CWMS) system." Protest at 13. TCS argues its solution is of significant benefit to DHS

because “it validates invoices by performing automated invoice scanning and identification of invoice errors, which reduces human errors and invoice processing time.” Id.

The RFQ required vendors to explain how they would collect, process and consolidate paper and electronic invoices received from multiple wireless service providers in multiple billing formats before validating invoices against ordering records. RFQ at 37. The TET chairperson stated that TCS’s “invoice x-ray system indicated that TCS would be able to meet the requirements to collect, process, and consolidate paper and electronic invoices, however, the TET did not view this system as being a significant benefit to the government and therefore did not find it to be a strength.” AR, Tab 16, TET Chairperson’s Statement, at 2. While TCS disagrees with DHS’s evaluation in this regard, such disagreement does not provide a basis to find DHS’s evaluation unreasonable. A protester’s mere disagreement with the agency’s evaluation judgments does not render those judgments unreasonable. Silverback7, Inc., B-408053.2, Aug. 26, 2013, 2013 CPD ¶ 216 at 7.

TCS also argues that the agency unreasonably identified weaknesses in its quotation under factors 1 and 2. For example, DHS assigned a weakness under factor 2 because it found that TCS did not “meet the requirement in [section] 2.2.3.6 of the PWS for section 508 compliant requirements for satellite phones in its technical quotation.”³ AR, Tab 10, Technical Evaluation Report at 85. According to DHS, “[t]his is a weakness because TCS did not provide the information required by the relevant section of the PWS which is a flaw in the proposal that increases the likelihood of unsuccessful contract performance.” Id. TCS argues that the agency should have understood it to have demonstrated section 508 compliance where it confirmed that it would only offer “DHS-authorized satellite phones” and “DHS-approved devices.” TCS’s Comments on the AR at 11. Given the lack of specificity in TCS’s quotation--TCS’s failure to mention 508 compliance in its quotation at all--we have no basis to question the agency’s concern regarding TCS’s compliance with the requirement. It is an offeror’s responsibility to submit an adequately written quotation with sufficient detail to demonstrate an understanding of, and ability to meet, solicitation requirements. CEdge Software Consultants LLC, B-408203, July 19, 2013, 2013 CPD ¶ 177 at 3.

Additionally, TCS asserts that DHS’s evaluation was irrational as reflected by the fact that the results of the reevaluation differed from the results of the initial

³ Section 2.2.3.6 of the PWS requires “global, easy-to-use, reliable satellite devices, including devices supporting section 508 compliant assistive technology.” RFP at 44. This requirement pertains to section 508 of the Rehabilitation Act, codified at 29 U.S.C. § 794d, which sets standards for accessibility to electronic and information technology for people with disabilities.

evaluation. Protest at 17. For example, TCS highlights the fact that DHS found two strengths during the initial evaluation, which were not identified as strengths in the reevaluation, thereby resulting in TCS receiving a lower adjectival rating for factor 3 in the reevaluation. Id. According to TCS, the inconsistent evaluations evince unreasonable application of adjectival ratings and constitute an attempt to preserve the status quo with respect to vendors' ratings under the initial evaluation.⁴

The record reflects that the reevaluation did not involve a review of the consensus results of the first evaluation, but rather a new evaluation of all aspects of the firms' quotations. In this regard, the technical evaluation report provides a detailed explanation of the evaluators' ratings, including comprehensive narrative descriptions of the various evaluated strengths and weaknesses.⁵ AR, Tab 10, Technical Evaluation Report. Although TCS contends that the differing evaluation findings between the initial and subsequent reevaluation evidences unreasonable agency action, such an inference is baseless. As we have held, the mere fact that a reevaluation after corrective action varies from the original evaluation does not support a finding that the reevaluation was unreasonable. Marcola Meadows VA LLC, B-407078.2 et al., June 4, 2013, 2013 CPD ¶ 141 at 7. Rather, it is implicit that a reevaluation can result in different findings and conclusions. Id. The overriding concern for our review is not whether the final ratings are consistent with an earlier set of ratings, but whether they reasonably reflect the relative merit of quotations. IAP World Services, Inc., B-406339.2, Oct. 9, 2012, 2012 CPD ¶ 287 at 3. While TCS may not agree with the evaluation findings, TCS has not shown that DHS's evaluation judgments were unreasonable or otherwise improper.⁶

⁴ TCS's contention that DHS officials manipulated the reevaluation to preserve the agency's original decision is essentially an allegation of bad faith. Procurement officials are presumed to act in good faith, however, and our Office will not attribute unfair or prejudicial motives on the basis of inference or suppositions. Rather, a protester alleging bias or bad faith must provide convincing proof of the officials' improper motives. Impreglio Edilizia S.p.A., B-292468.4, Nov. 25, 2003, 2003 CPD ¶ 216 at 5. In this case, the protester has failed to meet that standard.

⁵ Although the protester faults DHS's reevaluation for not including an explanation as to why the reevaluation differed from the initial evaluation, no such explanation is required where the agency had undertaken a new evaluation. See Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 11 (denying protest that agency reevaluation and technical ratings were unreasonable because agency did not explain why evaluations differed between the initial evaluation and reevaluation undertaken during corrective action).

⁶ Where, as here, the RFQ does not define adjectival ratings with specificity, the agency has a wide degree of discretion in its evaluation, so long as the agency's interpretation is reasonable. General Dynamics Information Technology, Inc., B-406030.3, Jan. 25, 2012, 2012 CPD ¶ 55 at 4.

Best Value Trade-Off/Source Selection Decision

TCS argues the best value determination and source selection decision were flawed because the underlying evaluation was flawed. TCS's Comments on AR at 13. We have held that an agency's best value determination is flawed when one or more of the underlying evaluations upon which that trade-off analysis is based are unreasonable, erroneous or improper. Ashland Sales & Serv. Co., B-291206, Dec. 5, 2002, 2003 CPD ¶ 36; Chem. Demilitarization Assocs., B-277700, Nov. 13, 1997, 98-1 CPD ¶ 171. As explained above, we do not find the agency's evaluation of TCS's quotation was flawed. Accordingly, the argument does not have merit.

Finally, TCS argues that DHS did not adequately consider whether the benefits in iSYS's quotation were worth the price premium. TCS's Comments on AR at 13. As noted, DHS provided a detailed record of its evaluation and source selection decision. The SSDD shows that DHS evaluated the relative merits of the quotations, and includes a comparison of the evaluations of iSYS and TCS, on a factor by factor basis. AR, Tab 13, SSDD at 3-5. The SSDD explains as follows, "Looking across all factors, iSYS is more highly rated in four of the seven factors, to include two superior ratings. In the remaining three, the ratings were the same, but the strengths conferred by iSYS were of greater benefit." Id. at 5. More specifically, the SSDD notes that iSYS offered greater benefits under the most important non-price factor, performance management and accountability, including iSYS's [DELETED]. Id. at 3. Additionally, the SSDD notes that iSYS [DELETED]. Id. Based on the detailed comparative assessment provided in the SSDD, we have no reason to conclude that the agency failed to properly consider the relative strengths and weaknesses of the quotations or that the best value decision was unreasonable.

The protest is denied.

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General Counsel