



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: GBTI Solutions, Inc.
File: B-409114.3; B-409114.5
Date: January 29, 2014

Wenming Kuai, GBTI Solutions, Inc., for the protester.
J. Patrick McMahon, Esq., William T. Welch, Esq., and Kevin R. Learned, Esq.,
McMahon, Welch and Learned, PLLC, for Business Information Technology
Solutions, Inc., the intervenor.
Suzanne M. Steffen, Esq., Defense Logistics Agency, for the agency.
Matthew T. Crosby, Esq., and Sharon L. Larkin, Esq., Office of the General
Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging evaluation of protester's past performance is denied where record shows that evaluation was either reasonable or did not prejudice protester.
 2. Protest challenging agency's best value tradeoff is denied where record reflects that agency substantively considered relative merits of and price difference between proposals, and error noted by protester was not prejudicial.
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DECISION

GBTI Solutions, Inc., of McLean, Virginia, protests the issuance of a task order to Business Information Technology Solutions, Inc. (BITS), of Alexandria, Virginia, by the Defense Logistics Agency under request for quotations (RFQ) No. SP4701-13-Q-0039 for desktop managed services for the Defense Contract Audit Agency (DCAA). GBTI asserts that the agency unreasonably evaluated its proposal and that the agency's best value tradeoff analysis was flawed.

We deny the protest.

BACKGROUND

The solicitation, which was issued on December 17, 2012 as a total small business set-aside, sought proposals from vendors holding Federal Supply Schedule contracts under Schedule 70, General Purpose Commercial Information Technology

Equipment, Software, and Services.¹ See Agency Report (AR), Tab 21, Award Decision Document (ADD), at 1. The solicitation contemplated the award of a single fixed-price task order with a base period of one year and two one-year option periods. RFQ at 1-2. Award was to be made based on the proposal that was determined to represent the best value to the government considering the following factors: program management approach, key personnel, past performance, and price. Id. at 66. The non-price factors were stated to be in descending order of importance and to be significantly more important than price. Id.

In general terms, the solicitation sought desktop managed services to support more than 5200 users within DCAA. See RFQ at 19, 34. The support was to encompass DCAA's

computing infrastructure environment that includes desktop computing hardware devices and associated system software, laptop/notebook computing hardware devices and associated system software, business productivity software . . . , network-attached printers, scanners, multifunctional devices (such as printer/scanner/fax) and copiers that are attached to the local-area network (LAN), handheld computing hardware devices and associated system software (for example, Smartphones, PDAs and handheld devices), locally attached peripheral devices . . . , and file, print and local application servers.

Id. at 19. The requirements were broken into the several main task areas, one of which was helpdesk support. See id. at 19-25.

As relevant to this protest, under the past performance factor, vendors were to provide detailed information regarding the performance of two or three contracts having "similar scope, magnitude and complexity" to the solicited requirement. RFQ at 75-76. This information was to be provided in a form titled "past performance template," which, among other things, instructed vendors to "[d]escribe the metrics used for evaluating the success of the program." Id. at 96.

Also regarding past performance, the solicitation stated that the agency would

consider the relevance of the vendor's past performance and how well the vendor performed . . . in the last three years and success with projects that are similar in scope and complexity to the tasks identified in the [performance work statement]. . . . There will be a rating given

¹ Although the solicitation was an RFQ, it sought "proposals." See RFQ at 69. Because the distinction between a quotation and a proposal has no bearing on our analysis in this protest, we use the term proposal throughout this decision.

for relevancy and one for quality and the two combined ratings will provide an overall performance confidence assessment rating.

RFQ at 67. The solicitation also stated that the agency would consider the vendor’s “history of successful completion of projects; history of producing high-quality reports and deliverables; and history of staying on schedule and within budget.” Id. at 68. Additionally, the solicitation stated that the agency “will contact previous customers based on information provided by the vendor.” Id. at 67.

The agency received numerous proposals by the solicitation’s closing date, including proposals from GBTI and BITS. AR, Tab 21, ADD, at 3. A selection evaluation team (SET) evaluated the proposals under the non-price factors; identified proposal strengths, weaknesses, and deficiencies; assigned adjectival ratings; and documented the evaluation results in a report. See id. Pricing also was evaluated. See id. The agency then established a “negotiation range” consisting only of the “most highly rated proposals.” AR, Tab 13, Determination of Vendors in the Negotiation Range, at 3.

Next, the agency entered into negotiations with the negotiation range vendors by sending letters that advised of proposal weaknesses and that requested proposal revisions. See AR, Tab 21, ADD, at 3. All vendors in the negotiation range submitted proposal revisions. Id. All of these vendors also submitted revised pricing in a reverse auction conducted by the agency. Id.

After evaluating the proposal revisions, the SET assigned final proposal ratings. See AR, Tab 21, ADD, at 3. The final proposal ratings for GBTI and BITS, together with their final evaluated pricing, are shown in the table below.

	GBTI	BITS
Program Management Approach	Good	Good
Key Personnel	Acceptable	Acceptable
Past Performance--Overall	Unknown Confidence (Neutral)	Satisfactory Confidence
Past Performance--Relevancy	Non-Relevant	Somewhat Relevant
Past Performance--Quality	Neutral	Good
OVERALL ASSESSMENT	Acceptable	Good
Evaluated Price	\$5,756,613.00	\$6,701,806.50

Id. at 7, 38.

The contracting officer documented a best value analysis wherein the merits of BITS's proposal were compared to the merits of each of the other proposals in the negotiation range. AR, Tab 11, Contracting Officer's Negotiation Memorandum (CONM), at 45-51. In comparing GBTI's and BITS's proposals, the contracting officer noted that both proposals received the same ratings under the program management approach and key personnel factors. Id. at 45-46. She found, however, that BITS's proposal had an "edge" over GBTI's proposal under both of these factors because BITS's proposal had more strengths and fewer weaknesses than GBTI's proposal. Id.

In comparing GBTI's and BITS's proposals under the past performance factor, the contracting officer found as follows:

GBTI received an Unknown Confidence rating for Past Performance whereas BITS has received a Satisfactory Confidence rating. GBTI's Past Performance efforts were rated Non-relevant because the efforts involved possess a minimal amount of the scope and effort this solicitation requires. The vendor did not include a customer evaluation or information pertaining to meeting Service Level Agreements (SLA) and thus they received a Neutral Quality rating. . . . BITS' past performance record is more advantageous than that of GBTI, as they have provided evidence of more relevant experience and a good level of quality performance.

AR, Tab 11, CONM, at 46. The contracting officer concluded her comparison of GBTI's and BITS's proposals as follows: "Based on the advantages provided with BITS' proposal[,] paying a premium to BITS of \$945,193.50 or 14.1% is warranted for a proposal with more technical merit and lower overall risk." Id.

Based on her analysis of BITS's proposal relative to each of the other proposals in the negotiation range, the contracting officer found BITS's proposal to represent the best value to the government, and she recommended making the award to BITS. AR, Tab 11, CONM, at 51. After considering the proposals and the evaluation documentation, the source selection official (SSO) agreed that BITS's proposal represented the best value to the government. AR, Tab 21, ADD, at 46-47.

On September 27, 2013, the agency awarded the task order to BITS. AR, Tab 22, Task Order, at 1. This protest followed.

DISCUSSION

GBTI asserts that the agency unreasonably evaluated its proposal and that the agency's best value tradeoff analysis was flawed. We have considered all of GBTI's allegations, and, based on the record, we conclude that none furnish a basis on which to sustain the protest. Below we discuss GBTI's chief contentions.

Past Performance

GBTI challenges the rating of non-relevant that the agency assigned its proposal under the relevancy aspect of the past performance factor. Protest at 5-6; Comments at 5-6; Supp. Comments at 3-4. In this regard, GBTI argues that the past performance section of its proposal included examples of work that are relevant to the solicited requirement and that the agency ignored this information. Protest at 5; Comments at 5-6; Supp. Comments 3-4.

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 disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluator's judgments. Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. The relative merits of vendors' past performance information is generally within the broad discretion of the contracting agency, and our Office will not substitute our judgment for that of the agency. Paragon Tech. Group, Inc., B-407331, Dec. 18, 2012, 2013 CPD ¶ 11 at 5.

GBTI's proposal provided past performance information for three contracts. The first was a helpdesk support contract valued at approximately \$443,000 under which the firm supported 60 users. AR, Tab 16, GBTI Non-Price Proposal (Revised), at 36. The record reflects that the core reason that the agency found this contract to be not relevant was that its magnitude was not comparable to the magnitude of the solicited requirement. See AR, Tab 29, Contracting Officer Decl., attach. 1, Final SET Report Excerpt, GBTI Past Performance Evaluation, at 11 (hereinafter "GBTI Final Past Performance Evaluation"); see also AR, Tab 21, ADD, at 13.

As stated above, the protested task order has a value of \$6,701,806² and requires the support of more than 5200 users. AR, Tab 22, Task Order, at 2; RFQ at 34. We acknowledge GBTI's arguments regarding the similarity of some of the services that it performed under this contract to some of the services required under the solicitation. Nevertheless, given the significant disparity in dollar value between GBTI's contract (approximately \$443,000) and the protested task order (approximately \$6.7 million), and given the significant disparity between the number of users supported under the GBTI's contract (60 users) and the protested task order (more than 5200 users), we find the agency's judgment that this contract was not relevant to be reasonable.

² The agency's pre-award independent government cost estimate for the value of the contract was higher than the award amount. AR, Tab 21, ADD, at 35.

We similarly see reasonable bases for the agency's judgments that the other two contracts in GBTI's proposal did not qualify as relevant. For example, the second contract in GBTI's proposal involved full support of a website with 3.5 million users. AR, Tab 16, GBTI Non-Price Proposal (Revised), at 39. As discussed above, however, the solicitation here contemplated the support of a large and diverse information technology system that included desktop and laptop devices and their software; business productivity software; network-attached printers, scanners, and multifunctional devices; handheld computing devices and their software; and locally-attached peripheral devices. RFQ at 19.

The record reflects that the agency found GBTI's project to be not relevant in essence because "[t]he range of subject of [service] calls is limited to problems associated with a single website," AR, Tab 29, GBTI Final Past Performance Evaluation, at 11, and because the project "has only minimal similarity, in terms of types of problems and solutions, to the remote user support and Helpdesk ticketing systems required" in the solicitation, AR, Tab 21, ADD, at 13. Given the significant difference between the type of support provided under GBTI's contract and the type of support to be provided under the solicitation, we see no basis to question the agency's judgment that this project did not qualify as relevant.

GBTI also challenges the neutral rating assigned to its proposal under the quality aspect of the past performance factor. Comments at 7-8; Supp. Comments at 4-6. In this regard, GBTI points out that the neutral rating hinges largely on the agency's finding that GBTI did not provide adequate information regarding meeting SLAs under prior contracts. Comments at 7; Supp. Comments at 4-6. GBTI argues that this was improper because, according to GBTI, the firm's proposal revisions "address[ed] achievement of SLAs and performance metrics." Comments at 7.

As discussed above, the solicitation instructed vendors to "[d]escribe the metrics used for evaluating the success" of past projects. RFQ at 96. In its negotiations letter to GBTI, the agency stated that GBTI's proposal lacked "information pertaining to meeting SLAs." AR, Tab 15, GBTI Negotiation Ltr., at 2. In its proposal revision, GBTI provided an identical response for each past project. AR, Tab 16, GBTI Non-Price Proposal (Revised), at 37, 40-41, 43-44. The responses consisted of a list of types of metrics that were used and a blanket statement that the firm "regularly meets benchmarks based on these metrics." Id. at 37, 40, 43.

The solicitation here advised that under the past performance factor, the agency would consider, among other things, the vendor's "history of successful completion of projects; history of producing high-quality reports and deliverables; and history of staying on schedule and within budget." RFQ at 68. Given that both the solicitation and GBTI's negotiations letter requested information regarding how successfully GBTI had performed its past projects, and given that GBTI's revised proposal lacked specific information in this area, we do not view agency's judgment that this lack of information supported to a neutral rating to be unreasonable.

GBTI also challenges the neutral rating on the basis that the solicitation stated that the agency “will contact” the vendor’s previous customers, yet nothing in the record reflects that the agency contacted the customers listed in GBTI’s proposal. Comments at 7-8 (quoting RFQ at 67); Supp. Comments at 2-3 (same).

The agency acknowledges that GBTI’s previous customers were not contacted.³ Supp. AR at 37. The agency, however, takes the position that its failure to contact the references did not prejudice GBTI. Based on the record here, we agree.

Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency’s actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the agency’s evaluation of proposals are found. See Maywood Closure Co., LLC, B-408343 et al., Aug. 23, 2013, 2013 CPD ¶ 199 at 6; G4S Gov’t Servs., B-401694, B-401694.2, Nov. 4, 2009, 2009 CPD ¶ 236 at 4.

Here, although GBTI and BITS received the same ratings under the program management approach and key personnel factors, the ADD reflects detailed and reasonable bases on which the SSO found that BITS’s proposal had an “edge” over GBTI’s proposal under both factors. See AR, Tab 21, ADD, at 40. Further, as discussed above, we find the non-relevant rating assigned to GBTI’s proposal under the relevancy aspect of the past performance factor to be reasonable. We note also that in contrast to GBTI, BITS received ratings of somewhat relevant and good under the relevancy and quality aspects of the past performance factor, respectively, and an overall past performance rating of satisfactory confidence. Id. at 7. Finally, we note that the solicitation expressly provided that past performance was the least important non-price factor. RFQ at 66. For these reasons, we cannot conclude that but for the agency’s failure to contact GBTI’s past customers, GBTI would have had a substantial chance of receiving the award. See Maywood Closure Co., LLC, supra; G4S Gov’t Servs., supra, at 11. This basis of protest is denied.

Best Value Tradeoff

GBTI also challenges the award to BITS on the basis that the agency incorrectly calculated the percentage of difference between GBTI’s evaluated price and BITS’s evaluated price. Protest at 3-4; Comments at 2-3. In particular, GBTI points out

³ After GBTI filed its protest, the agency contacted the three customers listed in GBTI’s proposal. AR, Tab 30, Contracting Officer’s Decl., ¶ 7. Only one responded within the one-day time period offered by the agency, and that customer’s response stated GBTI had provided outstanding service. See id.

that the agency's tradeoff analysis states that the percentage of difference is 14.1 percent, when in fact it is 16.4 percent. Protest at 3-4.

We find that although the agency incorrectly calculated the percentage, the record reflects that for a number of reasons, GBTI was not prejudiced by the error.

First, in all but one instance where the error appears in the record, the correct absolute dollar difference between the two firms' pricing appears in the same sentence as the percentage.⁴ AR, Tab 21, ADD, 41-42, 46-47. For example, the tradeoff analysis includes the statement that "[b]ased on the advantages provided with BITS' proposal[,] paying a premium to BITS of \$945,193.50 or 14.1% is warranted for a proposal with more technical merit and lower overall risk." *Id.* at 41. As another example, the tradeoff analysis states that "[i]n comparison to BITS, GBTI was lower in price by \$945,193.50 (14.10%)." *Id.* at 46. Second, the error involves a difference of just over two percentage points. Finally, the record reflects that both the contracting officer and the SSO substantively considered the relative merits of GBTI's and BITS's proposals when they decided that paying the premium associated with BITS's proposal was warranted. *See id.* at 40-41, 46. Accordingly, we find that GBTI was not prejudiced by the agency's calculation error, and this basis of protest is denied. *See Earth Resources Tech., Inc.*, B-403043.2, B-403043.2, Oct. 18, 2010, 2010 CPD ¶ 248 at 8; *Parmatic Filter Corp.*, B-285288.3, B-285288.4, Mar. 30, 2001, 2001 CPD ¶ 71 at 11-12.

Finally, GBTI argues that a source selection decision that relies on the absolute difference in pricing (rather than the percentage of difference in pricing) is unreasonable, and that even a 14 percent difference in pricing is too significant to justify the award to BITS. Protest at 4-5; Comments at 2-3. Based on the breadth

⁴ In declarations submitted to our Office in response to the protest, both the contracting officer and the SSO state that the award decision was based on the absolute dollar difference between GBTI's and BITS's evaluated prices. AR, Tab 20, Contracting Officer's Decl., ¶ 5; AR, Tab 24, SSO Decl., ¶ 5.

of detail in the agency's tradeoff decision regarding the relative merits of the proposals, see AR, Tab 21, at 11-18, 40-41, we find these arguments unavailing.

The protest is denied.⁵

Susan A. Poling
General Counsel

⁵ GBTI raises a number of additional allegations regarding the agency's evaluation of its proposal. As stated above, we find that none furnish a basis on which to sustain the protest. By way of example, GBTI argues that the rating of good assigned to its proposal under the program management approach factor reflects that the agency improperly deviated from the evaluation rating definitions in the agency's internal evaluation plan. See Comments at 8; see also Protest at 8. The evaluation plan here defined a rating of good as applicable to a proposal that, among other things, "contains strengths which outweigh any weaknesses." AR, Tab 12, Evaluation Plan, at 13. In evaluating GBTI's proposal under the program management approach, the agency identified one strength, several "positive items," and no weaknesses. AR, Tab 21, ADD, at 11. Thus, GBTI's proposal rating under this factor is not at odds with the definition in the evaluation plan. Moreover, alleged deficiencies in the application of an agency's evaluation plan do not alone provide a basis for questioning the validity of an evaluation; such plans are internal agency instruction and do not give outside parties any rights. Resource Mgmt. Int'l, Inc., B-278108, Dec. 22, 1997, 98-1 CPD ¶ 29 at 4; Management Plus, Inc., B-265852, Dec. 29, 1995, 95-2 CPD ¶ 290 at 2 n.2. As another example of GBTI's additional allegations, the firm claims that because two of its proposed key personnel hold certain certifications, the agency's evaluation of its proposal under the key personnel factor was unreasonable. Protest at 6-7. Based on GBTI's acknowledgement that these personnel do not hold all of the certifications designated as "highly desirable" in the solicitation, see Protest at 6; RFQ at 90-91, we see no merit in this claim.