



GAO

Accountability * Integrity * Reliability

Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Gella LLC

File: B-409917.11

Date: January 6, 2016

Dr. Jyothi Gella, Gella LLC, for the protester.
Christian P. Maimone, Esq., Department of Health and Human Services, for the agency.
Robert T. Wu, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly evaluated protester's proposal as technically unacceptable is denied where the record provides no basis to question the agency's evaluation.

DECISION

Gella LLC, of Johnstown, Pennsylvania, protests the decision by the Department of Health and Human Services, National Institutes of Health (NIH), not to award the firm a contract under request for proposals (RFP) No. NIHOD2014001 for administrative support services. Gella argues that the agency improperly evaluated its proposal as technically unacceptable.

We deny the protest.

The solicitation, known as the Long Term Administrative Support Contract II (LTASCI), contemplates the award of multiple indefinite-delivery/indefinite-quantity contracts for the provision of long-term administrative support services across all of the NIH Institutes, Divisions, Centers and Offices. RFP § B.1. Contractors will be required to provide administrative support personnel over a 1-year base period and up to four 1-year option periods through the issuance of fixed-price task orders. Id., § L.2.2. The administrative tasks to be provided are for such services as general office support, travel support, meeting support, mail support, property management support, and publications support. RFP § C.2.2.

Award was to be made to the firms whose proposals were most advantageous to the government considering five evaluation factors: management plan/corporate resources, related experience, key personnel, past performance, and price. RFP § M.1. When combined, the first three technical factors were more important than past performance; when combined all of the non-price factors were more important than price. Id.

The agency received 237 proposals in response to the solicitation. Based on the initial evaluation, 31 proposals were found technically acceptable and 12 awards were made in April 2015. A number of protests were subsequently filed with our Office. In response, the agency took corrective action by reevaluating the proposals of the firms submitting timely protests, including Gella, and made one additional award. Multiple protests were again filed with our Office, including one from Gella, and the agency again decided to take corrective action. The agency conducted discussions with the protesters, offered them an opportunity to submit final proposal revisions, and evaluated those final proposal revisions. Gella's proposal was again evaluated as technically unacceptable with a high risk of unsuccessful performance. Agency Report (AR), exh. 5g, Source Selection Authority Memo, Sept. 22, 2015, at 2. Awards were ultimately made to 17 firms at evaluated prices between approximately \$41.6 million and \$49.5 million. Gella filed this protest after its debriefing.

Gella's protest alleged that the agency improperly evaluated its proposal as technically unacceptable by challenging each weakness identified by the agency evaluators. The agency report specifically addressed each allegation in detail. AR, Legal Memorandum, at 4-8. The entirety of Gella's comments in response to the agency report were:

We respectfully disagree with a number of statements made by the Contracting Officer; however, we stand on the merits of our initial protest filings and look forward to GAO's decision.

Gella E-Mail to GAO, Nov. 8, 2015, 8:17 p.m.

Where an agency provides a detailed response to a protester's assertions and the protester fails to rebut or otherwise substantively address the agency's arguments in its comments, the protester provides us with no basis to conclude that the agency's position with respect to the issues in question is unreasonable or improper. Straughan Environmental, Inc., B-411650 et al., Sept. 18, 2015, 2015 CPD ¶ 287 at 9-10; Integriguard, LLC d/b/a HMS Fed.--Protest & Recon., B-407691.3, B-407691.4, Sept. 30, 2013, 2013 CPD ¶ 241 at 5; Israel Aircraft Indus. Ltd.--TAMAM Div., B-297691, Mar. 13, 2006, 2006 CPD ¶ 62 at 6-7.

In this regard, in reviewing an agency's evaluation, we do not conduct a new evaluation or substitute our judgment for that of the agency but, instead, examine

the record to determine whether the agency's evaluation was reasonable and in accord with the solicitation's evaluation criteria. William J. Brant, Jr. & Assocs., B-406908, Sept. 26, 2012, 2012 CPD ¶ 264 at 3. The protester bears the burden of proving that an evaluation was unreasonable, and disagreement with the agency's evaluation, without more, provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Wash., Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. Here, as explained by the following examples, we have reviewed the record and see no basis to question the agency's evaluation of Gella's proposal.

Under the key personnel factor, the agency was to evaluate the appropriateness and adequacy of the education, experience, and competence of the contractor's key personnel, "with regard to projects of similar scope, size, and complexity" RFP § M.1. While the agency assigned Gella's proposal a strength because its program manager had over 18 years of experience in program management, the proposal was assigned a weakness because a significant amount of this experience was in the information technology professional services field, not in the administrative services field as relevant to the contract at issue. AR, exh. 4d, Gella Final Evaluation at 3. Similarly, while the agency assigned Gella's proposal a strength because its deputy program manager had 10 years of experience managing projects, the proposal was assigned a weakness because her resume showed only information technology-related project management. Id.

In its protest, Gella argued that both key personnel had the requisite experience, and complained that the RFP did not require experience managing administrative support services contracts or projects. Protest at 5. However, while procuring agencies are required to identify significant evaluation factors and subfactors in a solicitation, they are not required to identify various aspects of each factor which might be taken into account, provided that they are reasonably related to or encompassed by the RFP's evaluation criteria. Agile Defense, Inc., B-407179, Nov. 16, 2012, 2012 CPD ¶ 342 at 6-7.

The solicitation here expressly stated that the agency was to evaluate the experience of the contractor's key personnel "with regard to projects of similar scope, size, and complexity." RFP § M.1. In our view, experience with projects of "similar scope" reasonably encompasses experience with projects related to administrative support services, the subject of the contract at issue. The record confirms the agency's finding that the key personnel in Gella's proposal lacked program management experience with administrative support services projects or contracts, and Gella has given us no basis to question the evaluation.

Under the related experience factor, the agency was to evaluate the extent to which the offeror's and proposed subcontractors' prior experience "in similar contracts" can be demonstrated. RFP § M.1. Gella's proposal was assigned a weakness

because the majority of its related experience examples were not similar in size and scope as required for this contract. AR, exh. 4d, Gella Final Evaluation at 3.

In its protest, Gella argued that, in a prior evaluation, the agency concluded that one of its experience examples was a strength, a finding inconsistent with this identified weakness. Protest at 3-4. However, the fact that a reevaluation varies from an original evaluation does not constitute evidence that the reevaluation was unreasonable. It is implicit that a reevaluation could result in different findings and conclusions. QinetiQ North America, Inc., B-405163.2 et al., Jan. 25, 2012, 2012 CPD ¶ 53 at 13. The overriding concern is not whether the final evaluation is consistent with an earlier evaluation but whether it reasonably reflects the merits of proposals. See Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 11.

In any event, our review of the record shows no inconsistency between the two evaluations. The agency previously assigned Gella's proposal a strength for one of its examples because it showed experience providing administrative support services. But even in the prior evaluation, the agency assigned the proposal a weakness because the scope of the experience example was not related to the subject of the contract at issue here. The weakness identified in the reevaluation simply rolls up several weaknesses previously identified because the majority of Gella's experience examples were not similar in size and/or scope to the current contract. Compare AR, exh. 4a, Initial Technical Evaluation, Jan. 28, 2015, at 96, and AR, exh. 4d, Gella Final Evaluation at 3. The record confirms the agency's finding that the majority of the protester's related experience examples were not similar in size and/or scope to the contract at issue, and Gella has given us no basis to question the evaluation.

In conclusion, our review supports the agency's evaluation of Gella's proposal and, in the absence of any rebuttal, we have no basis upon which to find that the agency acted unreasonably in finding the protester's proposal technically unacceptable.

The protest is denied.

Susan A. Poling
General Counsel