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Decision

Matter of: The Walsh Federal, LLC

File: B-410316

Date: October 20, 2014

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Dirk D. Haire, Esq., Alexa A. Santora, Esq., and Benjamin J. Kussman, Esq., Fox Rothschild LLP, for Caddell Construction Company, the intervenor.
Javier E. Gonzalez, Esq., Department of the Navy, for the agency.
Heather Weiner, Esq., and Jonathan L. Kang, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency failed to consider the protester's past performance and lower price as a significant advantage, and failed to document the basis for the agency's source selection decision, is denied where the record supports the agency's evaluation, and documents a thorough consideration of the judgments made in the tradeoff analysis.

DECISION

The Walsh Federal LLC, of Chicago, Illinois, protests the award of a contract to Caddell Construction Company, of Montgomery, Alabama, under request for proposals (RFP) No. N69450-14-R-1756, which was issued by the Department of the Navy, Naval Facilities Engineering Command Southeast, for nuclear power training facilities. Walsh Federal challenges the agency's evaluation of the offerors' past performance, and argues that the best-value tradeoff and source selection decision was unreasonable.

We deny the protest.¹

¹ The agency requested that our Office process this protest under the express option provisions of our Bid Protest Regulations. 4 C.F.R. § 21.10 (2014). While our Office did not place this protest formally on the express option schedule, in an effort to expedite resolution of the protest, the parties voluntarily accelerated their
(continued...)

BACKGROUND

On January 10, 2014, the Navy issued the RFP, which sought proposals for the renovation of a multi-story training building and related structures for the Navy's nuclear propulsion training unit in Charleston, South Carolina. RFP at 15. The solicitation anticipated the award of a fixed-price construction contract, with one base contract line item number (CLIN) for renovation of the multi-story support building, and twelve optional CLINs for the related structures. Id. at 15-16.

The RFP provided for award on a best-value basis, considering seven factors: (1) experience; (2) technical approach; (3) construction schedule; (4) safety; (5) small business utilization; (6) past performance; and (7) price. Id. at 17-18. For purposes of award, the non-price factors, other than the past performance factor, were of equal importance, and when combined, were equal in importance to the past performance factor. Id. at 18. Overall, the non-price factors combined, including the past performance factor, were approximately equal to price. Id.

As relevant here, under the past performance factor, the solicitation stated that offerors should submit completed evaluations from the construction contractor appraisal support system (CCASS) with their proposals, if available. Id. at 27. If a CCASS evaluation is not available, the solicitation included a past performance questionnaire (PPQ) for offerors to provide to their clients to complete. Id. The RFP also stated that the government may review information from other sources, including the past performance information retrieval systems (PPIRS), and federal awardee performance and integrity information system (FAPIIS), for evaluating past performance. Id. For purposes of award, the solicitation stated that the agency would evaluate "[t]he degree to which past performance evaluations and all other past performance information reviewed by the Government . . . reflect a trend of satisfactory performance." Id.

The Navy received proposals from five offerors, including Walsh Federal and Caddell, by the initial closing date of March 18. Contracting Officer (CO) Statement, at 5. Following the evaluation of offerors, the contracting officer established a competitive range of all five offerors. Id. The agency then conducted discussions with the offerors, and requested final proposal revisions (FPR). Id. The agency received four timely FPRs by the May 13 deadline.² Id.

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filings, and our Office agreed to make every effort to accelerate resolution of the protest. As a result, this decision has been issued before the 65-day deadline under our express option procedures. See id.

² One offeror withdrew from the competition. CO Statement at 5 n.3.

After evaluating the FPRs, the source selection advisory council (SSAC) assigned the following ratings to Walsh Federal's and Caddell's FPRs: ³

	WALSH	CADDELL
NON-PRICE FACTORS	GOOD/ SUBSTANTIAL CONFIDENCE	OUTSTANDING/ SUBSTANTIAL CONFIDENCE
Experience	Good	Outstanding
Technical Approach	Outstanding	Outstanding
Schedule	Good	Outstanding
Safety	Good	Outstanding
Small Business Utilization	Good	Good
Past Performance	Substantial	Substantial
PRICE	\$154,744,000	\$157,810,500

Agency Report (AR), Tab 14d SSAC Report, at 4.

Based on the evaluations, the source selection official (SSO) concluded that Caddell's FPR provided the best value under the terms of the solicitation. AR, Tab 14e, Source Selection Decision Document (SSDD), at 2-3. Specifically, the agency concluded that Caddell's "superior corporate experience and schedule" were worth the "[1.98%] price premium." Id. On August 20, the agency awarded the contract to Caddell. CO Statement at 20. Walsh requested and received a debriefing. Id. This protest followed.

DISCUSSION

Walsh challenges the Navy's tradeoff analysis and source selection decision. Specifically, Walsh contends that its past performance was superior to the awardee's, and that the Navy failed to credit Walsh's proposal with this superior past performance in the agency's tradeoff analysis. The protester also argues that the source selection official failed to consider the relative importance of the evaluation factors in conducting the tradeoff analysis. In addition, the protester challenges the adequacy of the agency's documentation of its analysis. For the

³ The technical evaluation team (TET) assessed the technical proposals as outstanding, good, acceptable, marginal, and unacceptable. AR, Tab 14a, Final Source Selection Evaluation Board (SSEB) Report, at 4-5. In evaluating past performance, the agency assessed the offerors' performance records as substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown (neutral) confidence. Id. at 6.

reasons discussed below, we conclude that the agency's tradeoff assessment and award decision was reasonable, and adequately documented.⁴

Where a cost/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs. The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 13. The extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. Best Temporaries, Inc., B-255677.3, May 13, 1994, 94-1 CPD ¶ 308 at 3. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision, nor is there a requirement to quantify the specific cost or price value difference when selecting a higher-priced, higher-rated proposal for award. Advanced Fed. Servs., Corp., B-298662, Nov. 15, 2006, 2006 CPD ¶ 174 at 5. A protester's mere disagreement with the agency's determinations does not establish that the evaluation or source selection was unreasonable. Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4.

Past Performance

First, Walsh contends that the Navy's consideration of the offerors' past performance in the tradeoff decision was unreasonable. As discussed above, under the past performance factor, the solicitation stated that the agency would evaluate the degree to which an offeror's past performance information reflected "a trend of satisfactory performance." RFP at 27. In their FPRs, both Walsh and Caddell identified at least five projects, which the agency found to be relevant. AR, Tab 14d, SSAC Report, at 5; Tab 14b, Final TET Report, at 73. After the evaluation of FPRs, the agency assigned both Walsh's and Caddell's proposals substantial confidence ratings under the past performance factor, and concluded that the offerors' past performance was essentially equal. See AR, Tab 14d, SSAC Report, at 4.

Walsh does not challenge the substantial confidence ratings the agency assessed to Walsh's and Caddell's proposals under this factor. Rather, the protester argues that the SSA relied solely on the adjectival ratings for past performance, without considering the advantages and disadvantages associated with each offeror's past performance. Walsh contends that its past performance was clearly superior to Caddell's past performance, and asserts that the agency improperly failed to consider Walsh's superior past performance in the agency's tradeoff analysis. In support of this argument, Walsh notes that it received 6 excellent, and 4 very good

⁴ Although our decision does not specifically address all of Walsh' arguments, we have fully considered each of them and find that none provides a basis to sustain the protest.

past performance references, as compared to Caddell's 3 excellent, 1 exceptional, 2 very good, 2 above average, and 1 satisfactory past performance references. AR, Tab 14b, Final TET Report, at 4, 6. Walsh also notes that the evaluation lists a weakness for Caddell's past performance, and no weaknesses for Walsh's past performance.⁵ Id. at 68, 73.

We find the protester's arguments here do not demonstrate that the agency's tradeoff assessment of the offerors' past performance was unreasonable. In conducting the best-value tradeoff, the SSA reviewed the SSEB Report and SSAC Report, and received a briefing from the chair of the source selection board. AR, Tab 14e, SSDD, at 2. In addition, the SSA validated and endorsed the findings in the SSAC Report. Id. In comparing the proposals under the past performance factor, the agency found that Walsh's and Caddell's confidence assessments were essentially equal. AR, Tab 14d, SSAC Report, at 7. Specifically, the SSAC stated that "both offerors demonstrated a trend of highly successful, completed projects resulting in Substantial Confidence and a high expectation that they will successfully perform the required effort." Id.

With regard to Caddell's weakness, the SSAC noted that, while Caddell has "a poor rating for a relevant project, one project does not constitute a trend of poor performance." AR, Tab 14d, SSAC Report, at 5. In addition, the SSAC stated that Caddell's proposal "includes 5 highly relevant projects with high ratings, which do demonstrate a trend of successful project completion." Id. Similarly, the agency noted that Walsh's "two Excellent and three Very Good ratings on PPQs [were] for [five relevant projects.]" AR, Tab 14b, Final TET Report, at 73.

While the protester asserts that its past performance was superior because its projects were more highly rated than Caddell's, we note that the agency was not required to perform the mechanical comparison of Walsh's and Caddell's performance scores that the protester suggests. See Palmetto GBA, LLC; CGS Admins., LLC, B-407668 et al., Jan. 18, 2013, 2013 CPD ¶ 53 at 7 (past performance evaluations should not be based on a "simple count" of the strengths

⁵ In arguing that Walsh's past performance was superior, the protester relies on its apparent belief that the technical evaluation team, as part of its past performance evaluation, assessed the CCASS scores and PPQ scores for the projects identified in the offerors' proposals. See, e.g., Protester's Comments (Sept. 25, 2014), at 2, 6 ("The Technical Evaluation Team . . . separately evaluate[d] each of the projects submitted," "[a]nd they rated Walsh's projects higher than Caddell's."). We note, however, that these scores were not assigned by the technical evaluation team as part of their past performance evaluation, but by reviewers at other agencies where the projects were performed. Accordingly, to the extent the protester's argument relies on the assumption that the technical evaluation team assigned individual adjectival ratings to each project, we find it to be without merit.

and weaknesses assigned to the proposals during the evaluation process). Moreover, despite the protester's arguments to the contrary, there is no indication in the record that the evaluators or SSO considered Walsh's past performance to be superior to Caddell's. In sum, we find no basis to question the reasonableness of the agency's evaluation of Caddell's and Walsh's past performance as essentially equal.

Tradeoff analysis

Next, Walsh argues that the source selection official failed to consider the relative importance of the evaluation factors in conducting the tradeoff analysis. In support of this argument, the protester points to the solicitation provision that the technical and past performance factors, when combined, are approximately equal to price. RFP at 17. Specifically, Walsh contends that its lower-priced proposal provided Walsh with an advantage under the price factor, which accounted for 50 percent of the evaluation, and that the awardee's proposal provided the awardee with advantages under three technical factors, which accounted for only 15 percent of the evaluation.⁶ The protester asserts therefore that, based on the solicitation's relative weighting of the evaluation factors, it was unreasonable for the SSO to conclude that the awardee's proposal, with only a 15 percent advantage, was more advantageous than Walsh's proposal, with a 50 percent advantage. As discussed below, we find no merit to this argument.

As discussed above, where, as here, the RFP allows for a price/technical tradeoff, the source selection authority retains discretion to select a higher-priced, higher technically rated proposal if doing so is reasonably found to be in the government's best interest and is consistent with the solicitation's stated evaluation scheme. Federal Acquisition Regulation (FAR) § 15.308; Advanced Fed. Servs. Corp., supra.

Here, the record shows that the SSO considered the respective merits of the individual proposals in accordance with the RFP criteria, and concluded that Caddell's proposal offered specific technical advantages that were worth the

⁶ In calculating 15 percent for the technical factors, the protester relies on the solicitation's statement that the non-price factors, other than the past performance factor, were of equal importance, and when combined, were equal in importance to the past performance factor. RFP at 18. Accordingly, the protester asserts that the technical factors accounted for 25 percent of the evaluation. The protester then divides 25 percent by 5 (the number of technical factors), concluding that each factor accounted for 5 percent of the evaluation. Because the awardee received higher ratings than the protester in three of the technical factors, the protester asserts that the awardee's advantages in the technical factors should have accounted for only 15 percent of the evaluation.

approximately 2 percent price premium.⁷ AR, Tab 14e, SSDD, at 2. Specifically, the SSO noted that Cadell's proposal received an overall outstanding technical rating, as compared to Walsh's overall good technical rating, and identified numerous specific technical advantages in Caddell's proposal. AR, Tab 14e, SSDD, at 2. For example, in considering the experience factor, the SSO noted that, while Walsh's proposal was rated good, "the outstanding experience of Caddell self-performing relevant projects under difficult conditions and restrictions relevant to the ones under this project is considered superior." Id. In this regard, the SSO explained that "Caddell is self-performing specialized work, specifically, facility outfitting work," which the solicitation stated "may be rated higher," and that "[s]elf-performance . . . will assist with consistency, coordination and scheduling, which are all critical to the overall success of this project." Id.

With regard to the construction schedule factor, the SSO noted that Caddell's proposal was rated outstanding, while Walsh Federal's proposal was rated good, and stated that "[although] both Caddell and Walsh are proposing early completion of the first building . . . and early completion of the overall project[,] . . . Caddell is also proposing an early completion of the utility work on the south pier." Id. The SSO explained that the benefit of Caddell's approach was that it "allows the government to relocate the existing barge earlier than originally anticipated and allows demolition of the finger pier to begin earlier[, which] . . . results in the pier being scheduled for completion one year earlier than required." Id. In explaining her rationale for selecting Caddell's proposal at its higher price, the SSO stated that "Caddell's superior corporate experience and schedule are best value tradeoffs worth the price premium of . . . 1.98%." Id.

Based on this record, we find no merit to the protester's arguments that the SSO failed to consider the relative importance of the evaluation factors in conducting the

⁷ In addition, the SSO reviewed and accepted the SSAC's evaluation and ratings, which included a detailed comparison of Walsh's and Caddell's proposals, under each evaluation factor. AR, Tab 14e, SSDD, at 2. For example, with regard to the safety factor, the SSAC noted that while both offerors provided DART [days away, restrictions or transfers] rates of very low risk, Caddell also had EMRs [experience modification rate] of very low risk, while Walsh Federal had EMRs in the upper range of low risk. AR, Tab 14d, SSAC Report, at 7. The SSAC explained that, per the terms of the RFP, "lower EMRs will be given greater weight in the evaluation," and that "[t]his demonstrates a superior safety record, less safety risk, and expectation of meeting the Government's safety and risk management goals." Id.

tradeoff analysis, or that the agency failed to document the tradeoff analysis and selection decision.

The protest is denied.

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