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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Precise Management, LLC

File: B-411708

Date: October 5, 2015

Ronjiel Sharpe for the protester.
Maj. Michael G. Pond, Department of the Army, for the agency.
Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly cancelled solicitation where it evaluated the proposals received as technically unacceptable and could not determine that any of the proposed prices were fair and reasonable.

DECISION

Precise Management, LLC of McCalla, Alabama, protests the cancellation of request for quotations (RFQ) No. W9124C-15-T-0015 issued by the Department of the Army, Mission and Installation Contracting Command, for pest management services at Fort Jackson, South Carolina.¹ The protester argues that the agency improperly cancelled the solicitation after unreasonably evaluating the protester's proposal as technically unacceptable and the protester's proposed price as unreasonable.

We deny the protest.

BACKGROUND

¹ Although the solicitation identified itself as an "RFQ," the term "proposal" as opposed to "quotation," appears repeatedly throughout both the solicitation and the agency's procurement record. The solicitation contemplated an evaluation and source selection scheme similar to those used in negotiated procurements. For the sake of consistency, our decision adopts the terminology used by the solicitation and the agency record.

The solicitation, issued as a total small business set-aside, sought proposals for a contractor to perform pest management services on a scheduled, unscheduled, and emergency basis as set forth in the performance work statement. RFQ at 43. Offerors were informed that a fixed-price contract for a base year with 4 option years would be awarded to the offeror with the lowest-priced, technically acceptable proposal. Id. at 3-5. To be technically acceptable, a proposal had to clearly meet the minimum requirements of the solicitation. Id. at 136.

The solicitation indicated that proposals would be evaluated on the basis of three factors: technical capability, past performance, and price. The technical capability factor was comprised of three subfactors: (1) management approach; (2) technical experience; and (3) technical qualifications. To receive an overall rating of acceptable, an offeror had to receive a rating of acceptable under each non-price factor and subfactor. Id. at 134. As it relates to the protest, under the technical experience subfactor, offerors were instructed to provide not more than five examples of contracts completed or ongoing within the past three years that were similar to the RFQ's size and scope. The agency then would review the identified contracts to evaluate the offeror's experience to successfully manage and execute the solicited pest control services. Id. at 135.

The agency received three proposals, including one from Precise Management, which were evaluated by the agency's evaluation board. In its proposal, Precise Management provided information regarding an ongoing pest control contract, which the firm was performing as a major subcontractor to PK Management, and a completed pest control contract, which the firm performed as a major subcontractor to Cityside Management. Precise Management also listed another subcontract with General Dynamics Robotics Systems, but did not explain how this contract was similar in type or scope to the solicited requirements. Agency Report (AR) exh. 14, Precise Management Technical Proposal at 20-22 (Mar. 11, 2015).

Because Precise Management did not list a dollar value for any of the three contracts, the agency requested that the protester furnish the total dollar value of the contracts identified in its technical proposal. In response, the protester disclosed that the value of the ongoing PK Management contract was \$142,410 and the value of the completed Cityside Management contract was \$26,000. The protester did not furnish the contract value for its subcontract with General Dynamics Robotics Systems. Id. exh. 19, Protester's Response to Request for Clarifications at 3-4 (Mar. 26, 2015). Precise Management's proposal was rated unacceptable under the technical experience subfactor because, as the agency noted, the protester's work history "does not demonstrate sufficient experience to meet all requirements of PWS." Id. exh. 21, Contracting Officer's Determination at 7. The protester's proposal received an overall rating of unacceptable which rendered its proposal ineligible for award.

After comparing the proposed prices of the three offerors to the government estimate and the current contracting pricing,² the agency concluded that each of the proposals was unreasonable as to price. The agency then decided to cancel the solicitation and resolicit its requirements on an unrestricted basis. AR exh. 21, Contracting Officer's Determination at 1, 6, Contracting Officer Statement at 3-4. On June 22, the agency notified Precise Management that no award would be made because none of the proposals were evaluated as technically acceptable and none were reasonably priced. AR exh. 22, Notice to Unsuccessful Offeror. On June 24, the protester received a written debriefing and this protest followed.

DISCUSSION

The protester contends that the agency's decision to cancel the RFQ was unreasonable. Relying on information presented in its debriefing, the protester claims that the agency miscalculated the dollar value of its prior contracts which led to the agency's determination that it lacked sufficient experience to perform the solicited RFQ requirements.³ Precise Management also challenges the agency's finding that its proposed price was unreasonably high.

A contracting agency need only establish a reasonable basis to support a decision to cancel an RFQ. Surgi-Textile, B-289370, Feb. 7, 2002, 2002 CPD ¶ 38 at 2; A-Tek, Inc., B-286967, Mar. 22, 2001, 2001 CPD ¶ 57 at 2-3. A reasonable basis for cancellation exists and cancellation is appropriate when none of the proposals received were evaluated as technically acceptable. See Knight's Armament Co., B-299469, Apr. 7, 2007, 2007 CPD ¶ 85 at 3. Additionally, if an agency cannot purchase at a "fair and reasonable" price, as required by the Federal Acquisition Regulation (FAR), then cancellation is warranted. Bahan Dennis Inc., B-249496.3, Mar. 3, 1994, 94-1 CPD ¶ 184 at 3; see FAR §§ 13.106-3, 15.402 (price must be

² Due to acquisition delays, the agency reports that it negotiated a 5-month bridge contract on a sole source basis with the incumbent and therefore used the current contract pricing as a basis for determining price reasonableness. Contracting Officer Statement at 3-4.

³ The agency acknowledges that the protester's debriefing slides incorrectly listed the total dollar value for the contracts referenced in Precise Management's technical proposal. AR exh. 23, Protester's Debriefing at 10. However, the Army points out that the contemporaneous evaluation record shows that the agency actually evaluated the total dollar value of each contract as provided by the protester in its response to the agency's request for clarifications. Our Office has consistently stated that any error in a debriefing is procedural in nature and does not affect the validity the agency's evaluation and source selection decisions. See, e.g., Cambridge Project Development, Inc., B-409451, Apr. 29, 2014, 2014 CPD ¶ 136 at 3 n.1.

“fair and reasonable”). A determination of price reasonableness is a matter of agency discretion, involving the exercise of business judgment, which our Office will not question unless it is shown to be unreasonable. Selecta Corp., B-252182, May 26, 1993, 93-1 CPD ¶ 421 at 2; Sletager, Inc., B-240789.6, Oct. 11, 1991, 91-2 CPD ¶ 328 at 2. In determining price reasonableness, an agency may consider a number of factors, including prior contract history and the government estimate. Vitronics, Inc., B-237249, Jan. 16, 1990, 90-1 CPD ¶ 57 at 2; see FAR §§ 13.106-3, 15.404-1(b). In this regard, we have found cancellations proper where the protester’s price exceeded the government estimate by as little as 7.2 percent. Nutech Laundry & Textiles, Inc., B-291739, Feb. 10, 2003, 2003 CPD ¶ 34 at 4 (citing Building Maint. Specialists, Inc., B-186441, Sept. 10, 1976, 76-2 CPD ¶ 233 at 4).

We find the cancellation here was reasonable. As discussed above, none of the proposals received were technically acceptable and therefore all were ineligible for award. We recognize that Precise Management generally disagrees with the evaluation of its proposal under the technical experience subfactor, nonetheless, we need not resolve this issue since the record reflects that the agency also found the proposed prices unreasonable.⁴

Although the protester challenges the agency’s determination that its proposed price was unreasonably high, we have no basis to find the agency’s evaluation in this regard unreasonable. Precise Management essentially argues that its price could not have been unreasonable since it was lower than the incumbent’s price for pest control services at Fort Jackson, information which the protester obtained through a Freedom of Information Act request. Protest at 3, Protester’s Comments at 1-2.

The record, however, reflects that the protester’s comparison to the prior contract’s pricing is misplaced. The agency explains, and the protester does not dispute, that the incumbent contract was an indefinite-delivery/indefinite-quantity (ID/IQ) contract with 24 different contract line items whereas the cancelled solicitation has only three fixed-price line items. In addition, the agency notes that the price cited by the protester for the incumbent contract reflected the IDIQ contract’s maximum dollar

⁴ Although the protester did not specifically raise the issue, because the protester represented itself to be a small business--the solicitation was a small business set-aside--there is a question of whether the agency was required to refer questions concerning the adequacy of the protester’s experience to the Small Business Administration (SBA) for review under its certificate of competency (COC) procedures. See, e.g., J2A JV, LLC, B-401663.4, Apr. 19, 2010, 2010 ¶ 102 at 5 (noting that adequacy of awardee’s experience under solicitation’s definitive responsibility criterion should be referred to SBA for review under its COC procedures).

value; it did not represent the actual contract expenditures. According to the agency, many of the contract line items under the incumbent contract had maximum dollar values that were never utilized. Contracting Officer's Statement at 4.

As previously explained, the agency compared the protester's proposed prices to the government estimate and the current bridge contract pricing, i.e., current market climate, to determine the reasonableness of Precise Management's proposed prices. According to the agency, the pricing under the bridge contract provided the best basis for determining price reasonableness since the bridge contract's pricing structure was the same as the cancelled solicitation's pricing structure and reflected the most recent historical prices for the same or similar services. Contracting Officer's Statement at 2, 4. Given that the protester's prices exceeded the most current bridge contract prices by a significant amount, we have no basis to conclude that the agency acted unreasonably when it concluded that the protester's offered price was unreasonably high.⁵ See A. Hirsh, Inc., B-271829, July 26, 1996, 96-2 CPD ¶ 55 at 2.

The protest is denied.⁶

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⁵ Because the agency intends to resolicit its requirements, we will not disclose the actual percentage by which the protester's prices exceeded the government estimate and the bridge contract pricing.

⁶ Finally, we dismiss as untimely Precise Management's challenge to the award of the 5-month bridge contract. Under our Bid Protest Regulations, a protest based on other than alleged solicitation improprieties must be filed no later than 10 calendar days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Here, the bridge contract was awarded to the incumbent on March 31, 2015 and the protester was required to file its protest of the award within 10 calendar days of that date.