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Decision

Matter of: STEM International, Inc.

File: B-411940; B-411940.2

Date: November 19, 2015

Joseph P. Hornyak, Esq., Elizabeth N. Jochum, Esq., and Gregory P. Hallmark, Esq., Holland & Knight LLP, for the protester.
Theodore P. Watson, Esq., and Nicole L. Carter, Esq., Watson & Associates, LLC, for TET Consulting Business Management Services, an intervenor.
Joseph H. Doyle, Esq., Department of Homeland Security, for the agency.
Gary R. Allen, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest of an agency's technical evaluation and source selection decision is denied where the evaluation and award were reasonable and consistent with the solicitation's evaluation criteria.
 2. Protest that agency failed to perform a proper best-value cost/technical tradeoff is denied where the tradeoff is adequately documented and the decision was consistent with the solicitation and supported by the underlying evaluation.
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DECISION

STEM International, Inc., of Belcamp, Maryland, protests the award of a contract to TET Consulting & Business Management Services, of Jacksonville, Alabama, under request for proposals (RFP) No. HSFE20-15-R-0021, issued by the Department of Homeland Security, Federal Emergency Management Agency (FEMA) for training operations and support services to the FEMA Center for Domestic Preparedness/Chemical, Ordnance, Biological, and Radiological Training Facility located in Anniston, Alabama. The protester raises numerous challenges to the agency's evaluation under the technical and cost factors, and the cost/technical tradeoff decision.

We deny the protest.

BACKGROUND

FEMA issued the RFP on April 1, 2015, as a small business set-aside, under the North American Industry Classification System code 561210, seeking proposals for training operations and support services for the FEMA Center for Domestic Preparedness/Chemical, Ordnance, Biological, and Radiological Training Facility located in Anniston, Alabama. RFP at B-1, K-1, L-5.

The RFP contemplated the award of a fixed-price contract, with cost-reimbursable contract line item numbers (CLINs) for a 1-month transition period, 11-month base period, and four 12-month option periods. RFP at B-1, B-2. The RFP provided detailed instructions for the preparation of proposals. Offerors were instructed to submit separate technical and business proposals and were advised that technical merit and price would be weighted equally in a best-value tradeoff award decision. The technical proposal was to be evaluated and given adjectival ratings under the following six factors: work plan, management plan, staffing plan and key personnel, quality control plan, experience, and past performance.¹ RFP at M-1. The business proposal, which was to include fixed prices for various CLINs as well as other business proposal information such as letters of commitment and representations and certifications, was to be evaluated for completeness and reasonableness. Id. at L-6.

On the May 5 closing date, STEM, TET, and one other offeror submitted proposals, which were evaluated by a technical evaluation team and a price evaluation team. A pre-business clearance memorandum, approved by the source selection official (SSO) established a competitive range that included all three offerors. Contracting Officer's Statement at 4. The agency held written discussions with the offerors, and requested final proposal revisions (FPRs). Id. at 4-5.

The agency's technical evaluation team completed a final technical evaluation, reflected in a technical evaluation report. The agency prepared a post-business clearance memorandum (Post-BCM) with a post-FPR analysis that summarized the results of discussions with each offeror; provided a detailed narrative of each offeror's strengths and weaknesses with respect to each technical factor; and described the price analysis, noting that each price had been determined to be complete and reasonable, based upon adequate price competition. Agency Report (AR), Tab S, Post-BCM at 15-39. Finally, the Post-BCM documented, in the form of a six-page narrative, the tradeoff analysis used to determine which proposal provided the best value for the government. Id. at 39-44. The SSO reviewed and approved the memorandum.

¹ The available ratings were outstanding, good, satisfactory and unsatisfactory. AR, Tab G, Source Selection Plan, attach. 2, at 2.

The agency evaluated the proposals as follows:

	Offeror A	STEM	TET
Work Plan	Outstanding	Good	Satisfactory
Management Plan	Good	Outstanding	Satisfactory
Staffing Plan and Key Personnel	Outstanding	Good	Satisfactory
Quality Control Plan	Satisfactory	Good	Good
Experience	Outstanding	Outstanding	Satisfactory
Past Performance	Outstanding	Outstanding	Satisfactory
Total Price	\$9,179,286.55	\$9,776,174.00	\$7,492,018.66

AR, Tab S, Post-BCM, at 16.

In its best-value tradeoff analysis, the Post-BCM compared TET's proposal to those of STEM and Offeror A. AR, Tab S, Post-BCM, at 39-44. As relevant here, in the tradeoff between TET and STEM, the Post-BCM recognized many technical areas where STEM had shown technical superiority. For example, under the management plan factor, the Post-BCM noted that while TET's plan was adequate, STEM had proposed [deleted]. Id. at 42. In another example, addressing the staffing plan and key personnel factor, the Post-BCM found STEM's plan to be thorough, while TET's was satisfactory, with three weaknesses. Id. The Post-BCM determined TET's weaknesses to be insignificant, specifically finding that they did not affect TET's satisfactory rating.

The Post-BCM concluded that because the non-price factors were approximately equal in importance to price under the RFP's terms, the potential savings of approximately 30 percent offered by the TET proposal outweighed the technical superiority of STEM's proposal. The Post-BCM stated in this regard that "[t]he benefits of STEM's technical proposal, while thorough and comprehensive in multiple technical factors, do not justify the additional price of STEM's proposal." Id. at 44.

The SSO reviewed and approved the Post-BCM, which recommended that award be made to TET for the reasons stated above. Thereafter, the agency awarded a contract to TET, and STEM, after being debriefed, filed this protest.

DISCUSSION

STEM's primary argument is that the agency improperly evaluated TET's technical proposal by assigning it unsupported strengths for various factors; and that the agency failed to identify strengths that should have been assessed in STEM's own proposal.² As an example of the flaws alleged in the evaluation of TET's proposal, STEM contends that the agency improperly assigned TET a strength under the staffing plan and key personnel subfactor based upon TET's strategy for capturing incumbent employees. Supp. Protest at 10-11. More specifically, the protester asserts that while TET proposed only to offer such employees [deleted] the agency improperly interpreted this to mean TET was offering "similar or higher wages and benefits." Id. at 11, citing AR, Tab I, TET Technical Proposal, at 73; Tab S, Post-BCM, at 34.

The evaluation of technical and management proposals is primarily the responsibility of the contracting agency, since the agency is responsible for defining its needs and identifying the best method of accommodating them, and it must bear the burden of any difficulties resulting from a defective evaluation. Information Systems Technology Corp., B-289313, Feb. 5, 2002, 2002 CPD ¶ 36 at 3. In reviewing an agency's evaluation, our Office will not reevaluate proposals; instead, we will examine the record to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and applicable procurement statutes and regulations. Metro Mach. Corp., B-402567, B-402567.2, June 3, 2010, 2010 CPD ¶ 132 at 13; Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. An offeror's disagreement with the agency's evaluation is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

STEM's argument in this regard takes one notation relating to a single identified strength out of context and affords it disproportionate weight. Under the staffing plan and key personnel factor, proposals were to provide a staffing plan with a description of how the offeror would, among other things, "recruit, retain, train,

² STEM makes other allegations concerning the assignment of various strengths to TET's proposal that, according to the protester, should also have been assigned to STEM's proposal. Although we will not address these issues separately, we have reviewed the entire record, and find no basis to conclude that the award decision was unreasonable. We reach this conclusion after considering that the agency recognized that STEM's technical proposal was at least equal with, or superior to, TET's technical proposal under every factor, before determining that such superiority did not warrant paying the associated 30 percent price premium. We also note that we do not address several arguments raised in the initial protest that the agency substantively addressed in its agency report, but the protester did not further address or rebut in its comments.

supervise and coordinate its staff.” RFP at L-7. In evaluating TET’s proposal under this factor, the technical evaluators identified two strengths that STEM does not question: one is related to staff retention and reduction in training costs; and the other to employee morale, retention rates and skill improvement. Both of these strengths were based on [deleted] that TET proposed.³ AR, Tab O, Tech. Eval. Team Report, at 24; Tab S, Post-BCM, at 34, both citing Tab I, TET Technical Proposal, at 72-73. For the third strength, which STEM is challenging here, the evaluators identified TET’s strategy for capturing incumbent staff as incentive-driven, and listed nine aspects of that strategy. One of those nine items was “[s]imilar or higher salaries and benefits.” Id., Tab O at 24-25; Tab S at 34-35. The record thus shows that TET’s proposed compensation was only one, among many, of the attributes that the agency considered in assigning strengths under this subfactor. In this regard, we find no basis to question the reasonableness of the agency’s decision. The fact that the protester disagrees with the agency’s judgment does not provide such a basis. Ben-Mar Enters., Inc., supra.

Best-Value Determination

STEM also challenges the agency’s source-selection decision, arguing that the agency improperly converted the RFP’s best-value basis for award into a lowest-price, technically-acceptable source-selection scheme, simply because the agency stated in STEM’s debriefing that “TET Consulting’s proposal showed an acceptable level of technical competence available at a lower price.”⁴ Protest at 3-4. Further, STEM asserts that the agency failed to base the best-value tradeoff on a meaningful comparative analysis between STEM’s and TET’s proposals, as required by Federal Acquisition Regulation § 15.308. Supp. Protest at 2-10.

It is well-settled that an agency may properly select a lower-rated, lower-priced proposal, even where price is a less important evaluation factor than technical merit, where the agency reasonably concludes that the price premium involved in selecting a higher-rated proposal is not justified in light of the acceptable level of

³ Such fringe benefits included [deleted]. AR, Tab O, Tech. Eval. Team Report, at 24-25; Tab S, Post-BCM, at 34-35, both citing Tab I, TET Technical Proposal, at 72-73.

⁴ As an initial matter, our review of an evaluation challenge is based on the evaluation record, not the agency’s alleged statements during a debriefing. Our review concerns the manner in which the evaluation was conducted, notwithstanding the protester’s understanding of the agency’s subsequent explanation of how it conducted the evaluation. In this regard, a debriefing is only an explanation of the agency’s evaluation and source selection decision, not the evaluation or decision itself. Del-Jen Int’l Corp., B-297960, May 5, 2006, 2006 CPD ¶ 81 at 4.

technical competence available at a lower price. See, e.g., RQ Construction, LLC, B-409131, Jan. 13, 2014, 2014 CPD ¶ 30 at 6; Wyle Laboratories, Inc., B-311123, April 29, 2008, 2009 CPD ¶ 96 at 9; Bella Vista Landscaping, Inc., B-291310, Dec. 16, 2002, 2002 CPD ¶ 217 at 4. Further, 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. A protester's disagreement with the agency's determinations as to the relative merit of competing proposals and its judgment as to which proposal offers the best value to the agency, 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.

The record here reflects that the agency reasonably assessed the qualitative merits of both STEM's and TET's proposals, recognizing the technical superiority of STEM's proposal in the cost/technical tradeoff analysis. While STEM repeatedly complains that the agency's tradeoff determination was not specific enough or did not include all of the details in the evaluation record, we note in this regard that the SSO reviewed and approved the Post-BCM, which contains substantial documentation regarding the evaluated strengths and weaknesses of each of the offerors' proposals. AR, Tab S, Post-BCM, at 25-30 (STEM Evaluation Summary); 31-37 (TET Evaluation Summary). Furthermore, the Post-BCM also contains a qualitative tradeoff analysis between STEM and TET, which highlighted the substantive differences between the competing proposals that had already been separately discussed more fully in the extensive separate evaluation summaries. Id. at 25-37, 42-44. As noted above, the extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. Best Temporaries, Inc., supra. The Post-BCM recommended, and the SSO reviewed and agreed, that STEM's higher technical merit did not justify the more than \$2 million price premium, considering that technical and price considerations were stated to be of equal importance. Although STEM disagrees with this judgment, this does not demonstrate that the SSO's selection decision was unreasonable. See Weber Cafeteria Servs., Inc., supra.

The protest is denied.

Susan A. Poling
General Counsel