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Decision

Matter of: Camber Corporation

File: B-413505

Date: November 10, 2016

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DIGEST

Protest challenging the evaluation of vendors' technical quotations is denied where record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Camber Corporation, of Huntsville, Alabama, protests the Department of Justice's (DOJ) issuance of an order to NTT DATA Federal Services, Inc., of Vienna, Virginia, under request for quotations (RFQ) No. DJJB-16-RFQ-0940, for information technology (IT) support services. The protester argues that the agency unreasonably evaluated the vendors' quotations.

We deny the protest.

BACKGROUND

The RFQ was issued on December 22, 2015, and sought quotations to provide IT support services for DOJ's Executive Office of Immigration Review's (EOIR) eWorld, which is a collection of IT systems related to management of EOIR's immigration court hearings and cases. Agency Report (AR) at 1. The RFQ was issued under the Federal Supply Schedule (FSS) procedures of Federal Acquisition

Regulation (FAR) subpart 8.4 and was limited to vendors holding contracts under FSS schedule 70 for information technology. RFQ at 3-19.¹ The RFQ anticipated the issuance of a task order on a time and material basis with a 1-year base period and four 1-year options. Id. The RFQ provided that award would be made to the vendor offering the best value to the government, considering technical merit and price. Id. at 3-43. The technical merit evaluation factor was composed of four subfactors (with corresponding point values): experience (30 points), approach (30 points), personnel (30 points), and past performance (10 points). Id. at 3-43-44. Technical merit was considered significantly more important than price. Id. at 3-43.

The IT services being procured here consisted of 6 tasks for EOIR's eWorld including server and database support; architectural design, development, and test services; SharePoint support; program and project management services; technical support for EOIR users; and monitoring/testing to maintain EOIR applications. RFQ at 3-22-28. The RFQ provided that the estimated number of full time equivalent employees (FTE) for all tasks was 43. Id. at 3-28. This number of FTEs was provided for guide line purposes only. Id. at 3-6.

Offerors were instructed to provide their quotations in two parts: a technical quotation and a price quotation. With regard to the technical quotations, vendors were to include certain information relating to each of the evaluation subfactors (experience, approach, personnel, and past performance). Id. at 3-41-43. Under the experience subfactor, vendors were instructed to, among other things, "describe their corporate experience in Agile software development and management."² Id. at 3-42. Under the approach subfactor, vendors were to describe their "approach to software development management and methodologies" that the vendor would use in improving the "quality and speed of new capabilities." Id. Under the personnel subfactor, vendors were to discuss their selection of key personnel and describe how the individuals were "best suited" for the work to be performed.³ Id.

¹ Following receipt of questions, the agency issued a revised request for quotations on January 14, 2016. AR at 7. Citations to the RFQ are to the revised RFQ, and citations to pages in the record, including the RFQ and its amendments, are to the Bates-numbered pages provided by the agency in its report responding to the protest.

² As the agency explains, "Agile" is a software development methodology that differs from the traditional "waterfall" approach. AR at 6. Using the Agile methodology, software is supposed to be delivered in shorter timeframes by providing the "software in small, short increments, rather than in the typically long, sequential phases of a traditional waterfall approach." AR at 6.

³ Under the past performance subfactor, vendors were to provide three examples of successful performance of similar work. Id.

With regard to price, vendors were to provide a staffing chart and their proposed breakdown for how they would staff each of the 6 task areas, as well as their labor rates for each of the proposed individuals. RFQ at 3-19. The agency would evaluate prices for reasonableness, including proposed labor categories, level of effort, and hourly rates. RFQ at 3-44. The RFQ provided that comparison of the vendors' quoted prices would use the prices provided in the "Price Evaluation Table." Id.

The agency received four proposals by the February 11, 2016, closing date. All four vendors proposed to use Agile software development and management methodology in performing the IT services. AR at 11. With regard to Camber, the vendor's quotation stated that "[f]or the eWorld maintenance and enhancement support services, we offer a tailored Agile methodology to transform the existing maintenance SDLC [systems development lifecycle] to improve quality and speed of delivery." AR, exh. 9, Camber's Technical Quotation, at 9-12. Camber described its approach to using Agile methodology as a [DELETED] approach, where the agency can [DELETED] in order to

[DELETED]

Id. Camber's quotation provided that the vendor would perform the work using [DELETED] during the first year of contract performance, and [DELETED] for each of the option years. AR, exh. 10, Camber Price Quotation, at 10-6.

On March 15, a technical evaluation panel (TEP) completed its evaluation of proposals, identifying proposal strengths and weaknesses, and assigning point scores under each of the technical merit evaluation subfactors. AR, exh. 12, Technical Evaluation Report, at 12-1-8. The TEP's point scores for Camber's and NTT's quotations were as follows:

| | Camber | NTT |
|---------------------------|---------------|------------|
| Technical Merit | | |
| Experience (30 pts) | 24 | 24 |
| Approach (30 pts) | 21 | 24 |
| Personnel (30 pts) | 24 | 24 |
| Past Performance (10 pts) | 7 | 8 |
| TOTAL POINT SCORE | 76 | 80 |

Id. at 12-2.

In addition to the point scores, the TEP composed a narrative of each vendor's strengths and weaknesses under the four technical merit subfactors. As relevant to this protest, with regard to Camber's proposal, the agency noted the following

strengths under the experience subfactor: experience as the incumbent contractor that has supported the EOIR system for 10 years and is familiar with the systems and EOIR maintenance, and that Camber has demonstrated an ability to integrate Agile methodologies on other projects. AR, exh. 12, Technical Evaluation Report, at 12-5. The agency noted as a weakness that Camber's current staff "did not demonstrate specific experience in Agile methodologies and would require additional training." Id. at 12-6.

Under the approach evaluation subfactor, the agency noted as a strength that Camber's approach "is founded on industry standards," and, as the incumbent, the vendor was "uniquely positioned to reduce costs and minimize risks." Id. at 12-5. The agency noted as a weakness that Camber was only proposing [DELETED], but that switching to Agile "requires [DELETED]," and Camber's [DELETED] "approach is less desirable. . . ." Id. at 12-6.

Under the personnel subfactor, the agency noted a strength in Camber having a trained, cleared, staff that is familiar with the existing systems and has relevant experience, educations, and skill sets. Id. at 12-5. The agency noted as a weakness that Camber's key personnel did not demonstrate strength in Agile. Id. at 12-6. The agency also noted a weakness in that

Camber is also proposing to reduce the staffing levels under the EOIR recommended levels which has the potential to cause delays due to the need to recruit and clear additional staff which is the approach the quote takes to addressing staffing fluctuations.

Id.

Following the TEP's initial technical evaluation, the agency amended the RFQ by modifying the price evaluation table. AR, exh. 13, Agency Email Amending RFQ. In this regard, the amended price table stated that vendors were to "make sure" that their proposed level of effort was equal to the government's estimated level of effort for each of the six tasks.⁴ Id. at 13-4. The agency explained that "the purpose of this table remains unchanged--it is a means to calculate total evaluated price that can be used for price analysis/comparison." AR, exh. 13, Agency Email to Camber, May 16, 2016 at 1.

In response to the amendment, Camber requested that it be permitted to modify its technical quotation. AR, exh. 15, Camber Email to Agency, May 18, 2016, attach. 1. The agency subsequently permitted vendors to revise their technical quotations. AR, exh. 15, at 15-4. Camber modified its quotation to [DELETED],

⁴ The agency's level of effort estimate for each task was expressed in both labor hours and FTEs (where 1 FTE equals 1920 labor hours). Id. at 13-4.

raising its total to 43 FTEs for the base year and each option year. AR, exh. 19, Camber Revised Price Quotation, at 19-6.

The contracting officer, who was also the source selection authority (SSA), conducted a comparative assessment of the four proposals. AR, exh. 23, Best Value Determination, at 23-1-14. The SSA concurred with the TEP's findings, provided her own vendor-specific observations, and conducted a best-value tradeoff analysis. Id. at 23-2-11. With regard to Camber, the SSA noted the strengths and weaknesses that the TEP had found, and concluded that Camber's technically weaker quotation was not worth the higher price when compared to NTT's quotation (\$36,833,683 compared to \$34,515,436). Id. at 23-14. After considering the TEP's conclusions and her own vendor-specific observations, the SSA determined that NTT's quotation represented the best value to the agency. Id. The agency issued the order to NTT, and this protest followed.

DISCUSSION

Camber raises the following two primary arguments: (1) the agency used unstated evaluation criteria related to Agile methodologies in evaluating Camber's quotation under the technical merit subfactors; and (2) the agency evaluated the offerors unequally by assigning weaknesses to Camber's quotation that were not also assigned to the other vendors' quotations, and failing to assign strengths to Camber's quotation that were assigned to other vendors' quotations. Although our decision does not address all of Camber's arguments, we have fully considered each of them and find that none provides a basis to sustain the protest.

Unstated Evaluation Criteria

Camber argues that the agency's evaluation was improper because, under three of the four technical merit evaluation subfactors, the agency found weaknesses in its quotation with regard to Camber's use of the Agile method. Camber argues that the solicitation did not require a vendor to propose Agile in its technical approach, and thus the agency's evaluation demonstrates that the agency used an unstated evaluation criterion--specifically, the "comprehensive transition of the EOIR's software development life-cycles from an iterative and waterfall approach to an Agile approach." Protester's Comments at 1-2. We disagree.

Agencies are required to evaluate quotations based solely on the factors identified in the solicitation, and must adequately document the bases for their evaluation conclusions. IBM Global Bus. Servs. - U.S. Fed., B-409029, B-409029.2, Jan. 27, 2014, 2014 CPD ¶ 43 at 4. In evaluating quotations, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. Open Sys. Science of Virginia, Inc., B-410572, B-410572.2, Jan. 14, 2015, 2015 CPD ¶ 37 at 11.

Here, the agency reasonably evaluated Camber's use of Agile methodologies under the three technical merit subfactors (experience, approach, and personnel). With regard to the experience subfactor, the RFQ specifically provided that the vendors' quotations were to describe the vendor's experience with Agile software management and development. The RFQ's evaluation criterion also provided that the agency would evaluate the "vendor's ability to perform this requirement by looking at what each firm is doing now and/or has done recently," and "assessing how relevant and equivalent that work is to the scope, magnitude, and complexity of this requirement." RFQ at 3-44. Given that vendors were specifically informed to provide their experience with Agile methodologies, and given Camber's approach to performing the requirements used Agile methodologies, we find nothing improper with the agency's consideration of Camber's experience with Agile methodologies as part of the agency's determination of the "vendor's ability to perform the requirement." RFQ at 3-44. We thus find no reason to conclude that the agency used unstated evaluation criteria.⁵

Furthermore, we find that the agency's consideration of Camber's use of Agile methodologies does not constitute an unstated evaluation criterion under the approach subfactor. The RFQ specifically provided (as stated above), that vendors were to describe their approach to software development management and methodologies. RFQ at 3-42. The RFQ's evaluation criterion for this subfactor stated that the agency would "assess the feasibility, soundness, efficiency, effectiveness, and benefits of each vendor's technical and management approach to fulfilling this requirement." Id. at 3-44. Camber's quotation provided that the firm would be using Agile methods in its proposed solution. Specifically, Camber offered "a tailored Agile methodology" to performing the requirements. AR, exh. 9, Camber's Technical Quotation, at 9-12. Under these circumstances, where Camber

⁵ Camber also challenges the agency's finding, under the experience evaluation subfactor, that Camber's current staff lacked experience in Agile, and that training would be required. Camber argues that the firm has "abundant experience in managing and executing in an Agile software environment across dozens of projects involving many government agencies," and that the firm "has deep experience with Agile at the individual level, as evidenced by [DELETED] identified in its quote." Protester Comments at 4. We find nothing improper with the agency's evaluation. While Camber points to the corporation's experience with Agile as a whole, the agency's evaluation found that the specific personnel Camber proposed to perform this contract lacked experience with Agile. The record supports the agency's position--and the protester does not demonstrate otherwise--that Camber largely proposed the incumbent workforce which lacks experience in Agile methodologies. AR, exh. 18, Camber Revised Technical Quote, at 18-13-18. Furthermore, Camber's quotation specifically stated that it would provide training in Agile to its project manager, among others. AR, exh. 18, Camber Revised Technical Quote, at 18-27. Given this, we find nothing improper with the agency's evaluation.

proposed that it would be using Agile software development methods in its solution, the agency's consideration of that method under the "approach" subfactor does not constitute the use of unstated evaluation criteria.

Finally, with regard to the personnel subfactor, the RFQ provided that the agency "will assess the quality of the proposed personnel for their respective functional positions/roles (e.g. experience, relevant education and/or training, professional credentials . . .)." RFQ at 3-44. Again, since Camber proposed to use Agile methodologies in performing this contract, it was reasonable for the agency to consider the experience of Camber's key personnel with Agile, and consideration of the protester's ability to successfully perform the contract with the personnel it proposed with regard to Agile does not constitute the use of unstated evaluation criteria.

In summary, the agency explains, and the record shows, that the agency evaluated Camber's use of Agile methodologies in performing the IT services at issue here because Camber itself provided that it would use these methodologies to perform the services. As explained above, Camber's quotation specifically stated that it would be using Agile methodologies in its approach to software development and management. Given that the protester proposed an Agile approach to performing the work, we find nothing improper about the agency's assessment of the protester's method of implementing the Agile approach--and the experience of its personnel in the Agile approach.

Unequal Evaluation

The protester asserts that the agency's evaluation was improper because the agency found a weakness in Camber's quotation for proposing fewer than 43 FTEs to perform the work. As stated above, the agency found the following weakness under the personnel subfactor:

Camber is also proposing to reduce the staffing levels under the EOIR recommended levels which has the potential to cause delays due to the need to recruit and clear additional staff which is the approach the quote takes to addressing staffing fluctuations.

AR, exh. 12, Technical Evaluation Report, at 12-6. Camber asserts that other vendors also offered to perform with fewer than 43 FTEs, but the agency did not identify this as a weakness in their quotations. For example, Camber notes that NTT's initial quotation stated that the firm would provide [DELETED] FTEs in the base year, [DELETED] in the first option year, [DELETED] in the second option year, [DELETED] in the third option year, and [DELETED] in the final option year. Protester's Comments at 6.

Where, as here, an agency issues an RFQ to Federal Supply Schedule contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. Digital Solutions, Inc., B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. In conducting procurements, agencies may not generally engage in conduct that amounts to unfair or disparate treatment of competing vendors. Arc Aspicio, LLC; Aveshka Inc; Chakarbarti Mgmt Consultancy, Inc., B-412612 et al., Apr. 11, 2016, 2016 CPD ¶ 117 at 13. Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the vendors' quotations. See, A-Tek, Inc., B-404581.3, Aug. 22, 2011, 2011 CPD ¶ 188 at 8.

Here, the agency explains, and we agree, that Camber was assessed a weakness for its approach to dealing with staffing fluctuations, not just for having fewer than 43 FTEs. AR at 33-35. The agency's evaluation stated that Camber's proposal of fewer than 43 FTEs, "has the potential to cause delays due to the need to recruit and clear additional staff which is the approach the quote takes to addressing staffing fluctuations." AR, exh. 12, Technical Evaluation Report, at 12-6. In this regard, Camber's quotation provided that its approach to various types of workload increases (sporadic, short-term, long-term) was to bring on additional people, either from within Camber or recruit them from outside; the agency viewed this as creating a potential delay. AR, exh. 18, Camber Revised Technical Quote, at 18-20. In contrast, the other vendors provided for dealing with workload fluctuations by [DELETED]. AR at 11 (quoting AR, exh. 5, NTT Data Technical Quotation, at 26). Given that the vendors provided different approaches to workload fluctuations, we find nothing improper with the agency assigning a weakness to Camber's approach, but not assigning the same weakness to other vendors' approaches.

Camber argues that it was nevertheless improper for the agency to find a weakness in its quotation for providing fewer than 43 FTEs because the firm had, in fact, quoted 43 FTEs in its final quotation. In this regard, Camber points out that it specifically modified its technical proposal in response to the agency's amended price evaluation table, and yet the agency failed to remove the weakness or otherwise acknowledge Camber's increase in FTEs in the final evaluation.

Here, the contemporaneous record shows that the agency was aware of Camber's increase in FTEs, and considered it in its final evaluation. Specifically, the record shows that the SSA, in an email to a TEP member, noted that the final TEP report "does little to tell me what, if anything, was changed" in Camber's revised technical quotation. AR, exh. 20, at 20-1. The TEP member then explained to the SSA how

Camber had changed its proposal, explained that Camber “disagreed” with the agency’s request to add more FTEs, and explained that Camber had offered “no substantial changes to the technical approach.” Id. Given that the record shows that the SSA was aware of the revisions to Camber’s technical quotation, sought out how the quotation had changed, and learned that the TEP did not consider there to be any substantial changes--which, here, included no changes to Camber’s approach to staffing fluctuations--we find nothing improper with the agency’s evaluation in this regard.

The protester also argues that the agency engaged in a disparate evaluation of quotations under the experience subfactor. Specifically, Camber asserts that it was assigned only a strength for its incumbent experience, while the agency found, with regard to another vendor, that that firm’s experience with court management was “a significant strength because EOIR has a need for both case and court management.” AR, exh. 12, Technical Evaluation Report, at 12-3. Camber argues that it too has significant court management experience both as the incumbent and at the Administrative Office of the United States Courts (AOUSC), where it has provided “IT services including development and maintenance of the AOUSC case management [system] for more than 20 years.” Protester’s Comments at 8. Camber asserts that the agency’s evaluation was improper because the agency failed to state that it too had a “significant” strength.

Here, we acknowledge that the neither the TEP evaluation nor the SSA in the source selection decision document (SSDD) refers to Camber’s experience with court management as “significant.” However, we are not persuaded that this alone demonstrates an improper award decision such that Camber’s protest should be sustained. The record shows that the agency was aware of Camber’s significant experience with court management. The agency’s evaluation specifically recognized that the protester has supported the agency as the incumbent for the last 10 years, and the agency explains that the agency’s evaluators “understood that this strength recognizes Camber’s EOIR case management experience. . . .” AR at 36. Moreover, the SSA noted, in the agency’s best-value tradeoff document, Camber’s experience (specifically, its use of Agile methodologies) in maintaining the AOUSC’s case management system. AR, exh. 23, Best Value Determination, at 2. Furthermore, the unequal evaluation that Camber is alleging here is not a situation where the agency has recognized a significant strength in the awardee that it simultaneously failed to recognize in the protester, but rather is an alleged unequal evaluation between the protester and a third party. On this record, we disagree that

the failure to describe Camber's experience here as "significant" constitutes an error that rendered the award decision unreasonable. See PricewaterhouseCoopers LLP; IBM U.S. Fed., B-409885 et al., Sept. 5, 2014, 2014 CPD ¶ 289 at 21.

The protest is denied.

Susan A. Poling
General Counsel