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Decision

Matter of: Battelle Memorial Institute

File: B-413570.3; B-413570.4; B-413570.5

Date: May 23, 2017

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Debra B. Haworth, Esq., Defense Threat Reduction Agency, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's evaluation of the offerors' proposals under the mission capability factor is denied where the evaluation was reasonable and in accordance with the solicitation's stated evaluation criteria.
 2. Where solicitation required submission of past performance questionnaires and provided that the responsibility for their submission "rests solely with the offeror," agency properly did not consider the past performance of protester's subcontractors for which questionnaires were not submitted.
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DECISION

Battelle Memorial Institute, of Columbus, Ohio, protests the Defense Threat Reduction Agency's (DTRA) award of a contract to Leidos, Inc., of Reston, Virginia, pursuant to request for proposals (RFP) No. HDTRA-16-R-0001, to provide support for DTRA's cooperative biological engagement program (CBEP) and science and technology engagement partnership (STEP) program. Battelle protests that the agency miscalculated the offerors' proposals.

We deny the protest.

BACKGROUND

On March 3, 2016, DTRA published the RFP at issue, seeking proposals to support DTRA's mission of threat reduction.¹ AR, Tab 2, SOW, at 1. The solicitation contemplated award of a contract for a 1-year base period and four 1-year option periods; provided that award would be made on a best-value basis; and established the following evaluation factors: mission capability,² past performance, and cost.³ RFP at 17-22.

With regard to mission capability, the solicitation directed each offeror to submit a "comprehensive Management Plan" that discussed how the offeror intended to manage "program schedule, performance, risks, warranties, subcontracts, and data to support the program objectives." RFP at 12. More specifically, each offeror was directed to identify the "processes and techniques" it would employ to function as a "master integrator" and to, among other things, "leverage resident expertise, teaming arrangements and/or other partnerships." Id. Finally, in preparing their proposals, offerors were directed to "[a]ssume that the Government has no prior knowledge of the Offeror's capabilities and experience" and, accordingly, the solicitation provided that proposals "shall . . . include sufficient detail for effective evaluation and for substantiating the validity of stated assertions." Id. at 6.

With regard to past performance, the solicitation identified six task areas in which the contractor will be required to perform; provided that the relevance of past performance would be assessed in the context of those tasks; and advised that more relevant prior performance would have a greater impact on an offeror's past performance rating than less relevant prior performance. RFP at 21. The solicitation directed offerors to identify

¹ In this regard, the solicitation's statement of work (SOW) provides: "The overall objective of this contract . . . is to advance the CBEP mission of threat reduction by 1) improving the human capabilities of partner countries to safely and securely conduct biosurveillance and research on pathogens of security concern and 2) aiding in the development and implementation of partner countries' research programs focused on increasing knowledge related to pathogens of security concern." Agency Report (AR), Tab 2, SOW at 1. The SOW adds that the contractor "will establish a robust pool of academic and technical resources to cost-effectively meet the dynamic need for visiting scientists, scientific mentors, qualified trainers, research collaborators, and subject matter experts." Id.

² The solicitation stated that the mission capability factor would be "separately assessed through two subfactors"--management approach and technical approach--and provided that management approach was more important than technical approach. AR, Tab 8, RFP at 22.

³ The solicitation provided that mission capability was more important than past performance, which was more important than cost, and that mission capability and past performance combined were significantly more important than cost. Id. at 22.

past performance references for the prime offeror and for each of its critical subcontractors, and established various requirements, including the submission to the agency of a present and past performance questionnaire (PPPQ) for each reference. Id. at 14. Specifically, the solicitation stated:

[T]he Offeror shall ensure that each reference identified completes a Present and Past Performance Questionnaire (PPPQ) [attachment] L-2. This questionnaire shall be submitted directly to the government from the reference; questionnaires received from the Offeror will not be considered. However, the responsibility to send out and track the completion of the PPPQs rests solely with the Offeror. [Underlining added.]

Id.

On April 14, 2016, proposals were submitted by 11 offerors, including Battelle and Leidos. Following evaluation of the initial proposals, the agency established a competitive range of 4 offerors, including Battelle and Leidos, and thereafter opened discussions by sending evaluation notices (ENs) to each competitive range offeror.⁴ Among the ENs provided to Battelle was one that stated:

Two (2) [attachment] L2 Present and Past Performance Questionnaires (PPPQs) were not received. If performance history cannot be obtained, a relevancy rating cannot be assigned.

AR, Tab 18, Battelle ENs, at 2.

During the oral discussions that followed Battelle's receipt of the ENs, the agency further discussed the two missing PPPQs, identifying the specific subcontractors for which PPPQs had not been received. AR, Contracting Officer's Statement, Mar. 14, 2017, at 18. On September 6, Battelle submitted its written responses to the ENs, stating, among other things:

Battelle will contact relevant teammates to request that each reference identified completes a PPPQ. Should the PPPQs remain uncompleted, Battelle will consider submitting an equivalent past performance for the respective teaming partners.

AR, Tab 22, Battelle Responses to ENs, at 2.

On October 13, final proposal revisions (FPRs) were submitted and, thereafter, evaluated. Battelle's FPR did not include any additional past performance references,

⁴ The other offerors' proposals, and the agency's evaluation thereof, are not relevant to this protest and are not further discussed.

and the missing PPPQs were never submitted to the agency. The FPRs were evaluated as follows:⁵

| | Battelle | Leidos |
|----------------------------|----------------------------|---------------------------|
| Mission Capability | | |
| Management Approach | Green/ Acceptable | Purple/ Good |
| Technical Approach | Green/ Acceptable | Green/ Acceptable |
| Past Performance | Satisfactory Confidence | Substantial Confidence |
| Cost/Price | \$153,023,048 | \$170,219,528 |

AR, Tab 27, Source Selection Advisory Council Comparative Analysis Report, at 9.

In assigning Leidos’s proposal a rating of purple/good under the management approach evaluation subfactor, the agency concluded that Leidos’s proposal “contained strengths for a comprehensive and thorough teaming approach as well as for centralized documentation and communications that reduce schedule risk.” Id. at 5. In assigning Battelle’s proposal a rating of green/acceptable under the management approach subfactor, the agency concluded that Battelle’s proposed management approach met the solicitation requirements, but contained neither strengths nor weaknesses. Id. at 6.

In assigning Leidos’s proposal a rating of substantial confidence under the past performance factor, the agency concluded that Leidos’s proposal reflected “well-demonstrated past performance in all of the task areas.” Id. at 7. In assigning Battelle’s proposal a rating of satisfactory confidence under the past performance factor, the agency concluded that Battelle’s proposal reflected “well-demonstrated past performance in only 50% of the task areas.” Id.

On January 17, 2017, the source selection authority (SSA) selected Leidos for award, stating, among other things:

I determined the Leidos proposal provided a comprehensive teaming approach that obtained knowledge and expertise from teaming contractors, universities, non-government organizations, and national laboratories that would provide a rapid and flexible response to satisfying the statement of work

⁵ In evaluating proposals under the mission capability subfactors, the agency assigned ratings of blue/outstanding, purple/good, green/acceptable, yellow/marginal, and/or red/unacceptable. RFP at 19. In evaluating proposals under the past performance factor, the agency considered both the relevance and quality of a contractor’s prior performance, assigning ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence, and neutral/unknown confidence. Id. at 21.

requirements. Because this was the basic purpose of the STEP contract, I felt this was a critically important capability. In regards to the Mission Capability sub-factors . . . [t]he management approach proposed by Leidos . . . contained strengths for comprehensive and thorough teaming approaches with a noted approach for centralized documentation and communications that would reduce schedule risk. As for Battelle, I found the Mission Capability proposal technically weaker It was also noted Battelle had no Mission Capability strengths. . . . In continuing the non-cost factors comparison, I found Leidos's Past Performance proposal very strong and clearly having the highest confidence rating of all Offerors. In my opinion, the Leidos Past Performance proposal was best overall. . . . Battelle's proposed 50% coverage of the STEP tasks continues to give me concern about the capability of the contractor to perform this contract consistently with high quality. . . .

Cost/Price was also carefully considered in my best value determination. All Offerors' prices were considered to be complete and reasonable. . . . Battelle proposed a total price that was approximately \$17M[illion] less than Leidos. Although Battelle's cost proposal was the lowest cost, the lower total price was not sufficient enough to offset the stronger Leidos proposal with respect to the non-cost factors. The Battelle proposal contained no Mission Capability strengths. Consistent with Section M.3.2 of the RFP, the non-cost factors (Mission Capability and Past Performance) are significantly more important than cost. . . .

In the end, the Leidos proposal exceeded Mission Capability requirements, demonstrated a record of past performance that provided Substantial confidence in their ability to successfully perform the contract, and demonstrated the ability to perform at the best-value for [the] Government.

AR, Tab 27, Source Selection Decision, at 3-4.

Thereafter, Battelle was notified of the source selection decision. This protest followed.

DISCUSSION

Battelle challenges the agency's evaluation with regard to mission capability and past performance, and asserts that the best value determination was unreasonable. As discussed below, we find no merit in any of Battelle's complaints.⁶

⁶ In its various protest submissions, Battelle has raised arguments that are in addition to, and/or variations of, those discussed below. We have considered all of Battelle's arguments and find no basis to sustain its protest.

Evaluation of Mission Capability

First, Battelle asserts that it was unreasonable for the agency to assign its proposal a rating of green/acceptable, rather than purple/good, under the management approach subfactor of the mission capability evaluation factor, asserting that the agency unreasonably failed to identify various strengths.⁷ Protest, Feb. 13, 2017, at 9-17.

For example, Battelle complains that its proposal “should have received a strength for its proposed [redacted],” asserting that its approach would [redacted] and exceed the solicitation’s requirements. Id. at 10-11. In this context, Battelle complains that the agency failed to recognize Battelle’s “established structure” and “extensive experience” handling global public health issues, and that Battelle “brings . . . a strong technical perspective beyond standard cooperative threat reduction” to contract performance, all of which should have led to the assessment of a strength in Battelle’s proposal. Id. at 12.

The agency responds that, while Battelle’s proposal referred to its proposed use of “[redacted],” it failed to provide any meaningful detail beyond that broad assertion. Accordingly, the agency was unable to draw any conclusions as to whether Battelle’s proposed approach offered specific advantages to the agency. In this regard, the agency further notes that, although Battelle’s proposal made reference to “mature processes,” the mere statement that processes exist does not provide a sufficient explanation of what those processes are to cause the agency to conclude that they have particular merit for this program. Accordingly, the agency maintains that, while Battelle’s proposal provided sufficient information to establish that it met the solicitation requirements, it did not demonstrate that Battelle was proposing something specific that exceeded those requirements in a manner that would be advantageous to the agency.

In reviewing a protest challenging an agency’s technical evaluation, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency; the evaluation of proposals is a matter within the agency’s discretion since the agency is responsible for defining its needs and the best method of accommodating them. Smiths Detection, Inc.; Am. Sci. and Eng’g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 6-7. Rather, we will review the record only to determine whether the agency’s evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. A protester’s disagreement with the agency’s evaluation judgments, without more, does not render those judgments unreasonable. Smiths Detection, Inc.; Am. Sci. and Eng’g, Inc., supra.

⁷ A strength was defined as “[a]n aspect of an offeror’s proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance.” AR, Tab 25, Source Selection Evaluation Board Brief, at 8.

As noted above, the solicitation specifically advised offerors that their proposals must include sufficient details to support their various assertions, and directed them to “[a]ssume that the Government has no prior knowledge of the Offeror’s capabilities and experience.” RFP at 6. Here, we have reviewed the procurement record and find no basis to question the agency’s judgments that Battelle’s proposal demonstrated an acceptable level of knowledge and expertise in its proposed management approach, but did not include sufficient information to demonstrate that its proposed approach exceeded the solicitation requirements in a manner beneficial to the agency. Accordingly, we reject Battelle’s assertion that the agency was required to assess Battelle’s proposal with a strength regarding its proposed use of “[redacted].”

By way of another example, Battelle asserts that its proposal offered to “[redacted]” and, accordingly, it “should have received a strength for its culturally sensitive and tailored [Management] Approach.” Protest, Feb. 13, 2017, at 12. In this regard, Battelle references a portion of its proposal that stated: “DTRA . . . can rely on our experience in [redacted]” because Battelle “has [redacted]” for more than 20 years, and refers to its “proprietary [redacted].” *Id.* On this basis, Battelle maintains that the agency was required to assign it a strength because Battelle and its teammates “have dealt with the culturally sensitive nuances and issues” and have previously [redacted], and this demonstrates Battelle’s ability to function as a “master integrator.” *Id.* at 13.

The agency responds by noting that, throughout its protest, Battelle refers to its “extensive experience” as a basis for its asserted entitlement to evaluated strengths. The agency explains that such references alone were insufficient--without supporting detail explaining its approach and the benefit to the agency--to warrant assessment of an evaluated strength, stating that Battelle’s proposal failed to provide such supporting detail. More specifically, the agency refers to Battelle’s assertion that it will “[redacted],” noting the proposal contains no meaningful information showing how that approach would be carried out in a way that would exceed the solicitation’s requirements. In short, the agency states that Battelle’s proposal including multiple statements that were “top level,” but failed to describe “how” its proposed approach would be implemented or how such implementation would provide particular benefit to the agency or exceed solicitation requirements. Accordingly, the agency determined that no evaluated strengths were warranted, and that a green/acceptable rating was appropriate.

As noted above, our Office will not reevaluate proposals or substitute our judgment for that of the agency. Smiths Detection, Inc.; Am. Sci. and Eng’g, Inc., supra. Rather, we will review the record to determine whether the agency’s evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Shumaker Trucking & Excavating Contractors, Inc., supra.

Again, our review of the procurement record provides no basis to question the reasonableness of the agency’s judgments. Here, the solicitation specifically advised offerors that they should assume the agency had no knowledge of their capabilities or experience, and that they must provide sufficient, detailed information to support their proposal assertions. While Battelle’s protest repeatedly refers to its purported

“extensive experience,” neither those general references nor Battelle’s limited discussion of its proposed approach mandates a higher rating. Accordingly, based on our review, we find no basis to question the reasonableness of the green/acceptable rating assigned to Battelle’s proposal under the management approach evaluation factor, and Battelle’s complaints challenging that rating are denied.⁸

Evaluation of Past Performance

Next, Battelle protests that the agency’s assignment of a satisfactory confidence, rather than substantial confidence, past performance rating was improper “because the Agency did not fully consider certain [of] Battelle’s subcontractors’ most recent/relevant past performance.” Protest, Feb. 13, 2017, at 17. Specifically, Battelle asserts that the agency’s past performance evaluation was flawed because it did not reflect the past performance of the two subcontractors that failed to submit PPPQs. With regard to one of the subcontractors, Battelle acknowledges that the customer contact information provided to DTRA was invalid. Id. at 20. Nonetheless, Battelle asserts that DTRA “had only to Google” the contact’s name or other project information in order to have obtained the required PPPQ. Id. at 20-21. With regard to the second missing PPPQ, Battelle acknowledges that the past performance reference advised DTRA that it “does not provide feedback to specific questionnaires.” Id. at 21. Nonetheless, Battelle asserts that DTRA should have gone to that entity’s website and reviewed publicly-available information regarding the subcontractor’s past performance as a proxy for the required PPPQ. Id. at 21. Finally, Battelle maintains that if the agency had considered the two additional past performance references, Battelle’s past performance rating would have been substantial confidence, rather than satisfactory confidence. Id.

The agency responds that the solicitation expressly stated: “the Offeror shall ensure that each reference identified completes a Present and Past Performance Questionnaire (PPPQ),” and further unambiguously provided that “the responsibility to send out and track the completion of the PPPQs rests solely with the Offeror.” RFP at 14. The agency further notes that there is no dispute that the agency did not receive the required PPPQs for the two past performance references at issue; that the agency specifically called this matter to Battelle’s attention during discussions; that Battelle expressly acknowledged the absence of the PPPQs and advised the agency that it would follow up; and that Battelle failed to subsequently ensure that the PPPQs were

⁸ Shortly after submitting its initial protest, Battelle filed a supplemental protest that similarly challenged the agency’s assignment of a green/acceptable rating to Battelle’s proposal under the technical approach evaluation subfactor. First Supp. Protest, Feb. 17, 2017. Thereafter, Battelle submitted another supplemental protest asserting “unequal treatment” in the agency’s evaluation. Second Supp. Protest, Mar. 27, 2017. We have considered all of Battelle’s various complaints regarding the agency’s evaluations under the mission capability factor and find no merit in them.

submitted.⁹ Accordingly, the agency maintains it properly declined to consider any past performance information regarding these two particular projects in evaluating Battelle's proposal.

While agencies are not generally required to evaluate all past performance references, our Office has recognized that in certain limited circumstances, an agency has an obligation to consider past performance information that is "too close at hand" to ignore. See, e.g., New Orleans Support Servs. LLC, B-404914, June 21, 2011, 2011 CPD ¶ 146 at 5; TRW, Inc., B-282162, B-282162.2, June 9, 1999, 99-2 CPD ¶ 12 at 4-5. However, such "close at hand" information generally concerns contracts for the same services with the same procuring activity or information personally known to the evaluators.

Here, the solicitation specifically provided that each offeror "shall ensure" that each of the offeror's past performance references completed a PPPQ, and elaborated that "the responsibility to send out and track the completion of the PPPQs rests solely with the Offeror." RFP at 14. Further, the record unambiguously establishes that the agency called this matter to Battelle's attention during discussions; that Battelle expressly acknowledged the absence of the PPPQs; and that Battelle failed to subsequently ensure that the PPPQs were submitted. On this record, there is no merit to Battelle's assertions that the agency's past performance evaluation was flawed for having failed to consider the missing past performance information; to the contrary, the agency's evaluation was entirely consistent with the terms of the solicitation. Battelle's assertions that the agency was obligated to seek and obtain information that the solicitation specifically stated was Battelle's responsibility to submit are without merit, and Battelle's assertions in this regard are denied.

Best-Value Determination

Finally, Battelle protests that the agency's best-value determination was flawed because the agency made award to an offeror with a \$17 million higher price, asserting that the best-value tradeoff was based on the agency's allegedly improper underlying evaluations. Protest, Feb. 13, 2017, at 24.

As discussed above, we have rejected all of Battelle's various complaints regarding the agency's evaluation of proposals. Further, as also discussed above, the SSA considered and applied the solicitation's stated evaluation factors, including the provision that the mission capability and past performance factors combined were

⁹ In its supplemental protest submissions, Battelle asserts that the agency's discussions regarding past performance were less than meaningful. As discussed above, the agency specifically advised Battelle during discussions that the PPPQs had not been received and that failure to submit those documents could be detrimental to Battelle's past performance evaluation. On the record here, Battelle's assertions regarding allegedly less than meaningful discussions are wholly without merit.

significantly more important than cost, and concluded that the superiority of Leidos's proposal under those more-important non-cost factors outweighed Battelle's lower cost. On this record, there is no basis to challenge the agency's source selection decision.

The protest is denied.

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General Counsel