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

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Decision

Matter of: ALQIMI National Security, Inc.

File: B-413713.2; B-413713.3

Date: April 3, 2017

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Richard Poelma, Esq., United States Marine Corps, for the agency.
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GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of proposals is denied where the record demonstrates that the agency's evaluation was reasonable and consistent with the terms of the solicitation.
 2. Protest challenging agency's selection of a lower-rated, lower-priced proposal for award is unobjectionable where the agency's trade-off decision was reasonable, and where the agency adequately documents its trade-off rationale.
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DECISION

ALQIMI National Security, Inc. (ALQIMI), of Rockville, Maryland, protests the award of a contract to The Centech Group, Inc. (Centech), of Falls Church, Virginia, under request for proposals (RFP) No. M67400-16-R-0001, issued by the United States Marine Corps for technical and advisory management support services. ALQIMI challenges the agency's technical, past performance, and price evaluations. Additionally, the protester alleges that the best-value trade-off and source selection was unreasonable.

We deny the protest.

BACKGROUND

The Marine Corps issued the RFP on May 2, 2016, for on-site technical and advisory support for the staff of the Defense Policy Review Initiative (DPRI) Integrated Program Management Office (IPMO), at the Marine Corps Air Station,

Iwakuni, Japan.¹ The RFP anticipated the award of a fixed-price requirements contract, for a base year and 2 one-year options. RFP at 32.

The solicitation provided for award on a best-value basis, considering price and two non-price factors, technical approach and past performance. Id. at 49. The technical approach factor included the evaluation of three sub-factors, of equal importance: (a) technical approach (task understanding), (b) staffing approach and labor mix qualifications/certifications/ experience, and (c) processes and procedures/quality control. Id. The technical and past performance factors were of equal importance and, when combined, were more important than price. Id. at 49, 53. The solicitation provided that the basis of award would be determined by means of an integrated assessment of each offer in terms of the above evaluation factors, and that the agency would perform a trade-off analysis of the factors to determine the best value to the government. Id. at 49.

As relevant here, under the technical approach factor and its subfactors, the RFP provided that the agency would assign one of the following ratings: outstanding, good, acceptable, marginal, or unacceptable.² Id. at 50.

For the past performance factor, the RFP provided that the agency would evaluate references for recency, relevancy, and performance confidence. Id. at 51-52. To be considered recent, the RFP provided that performance of the effort had to occur within the three years prior to the RFP release date and a minimum of one year of performance had to be completed as of the closing date of the RFP.³ Id. at 51. The solicitation explained that, based on the quality of recent and relevant past performance, the agency would assign an assessment rating reflecting the

¹ Centech was the prime contractor, with ALQIMI as its primary subcontractor, on the incumbent contract. Protest at 17.

² Of relevance here, a rating of “outstanding” was defined to mean the proposal meets requirements and indicates an exceptional approach and understanding of the requirements, the strengths far outweigh any weaknesses, and the risk of unsuccessful performance is very low. RFP at 50. A rating of “good” was defined as the proposal meets requirements and indicates a thorough approach and understanding of the requirements, the proposal contains strengths which outweigh any weaknesses, and the risk of unsuccessful performance is low. Id.

³ Relevancy was defined by degrees of similarity to the current effort and the RFP provided that, under this criterion, references would be assigned one of the following ratings: very relevant, relevant, somewhat relevant, or not relevant. RFP at 51-52.

government's confidence that the offeror would meet the requirements stated in the RFP.⁴ Id. at 51-52.

The RFP also provided that, at the conclusion of the non-price evaluation, each proposal would receive a combined non-price "summary rating" of either very low risk, low risk, or high risk. RFP at 53; Agency Report (AR), Exh. 7, Business Clearance Memorandum (BCM), at 17. Finally, with regard to price, the RFP provided that the agency would evaluate proposed prices for completeness and reasonableness. RFP at 52.

The agency received proposals from three offerors, including ALQIMI and Centech. AR, Exh. 7, BCM, at 17. After evaluating proposals, the agency concluded that Centech's proposal represented the best value to the government, and on September 2, 2016, the agency awarded the contract to Centech. Id.

On September 12, ALQIMI filed a protest with our Office. In response to the protest, the agency advised our Office that it intended to take corrective action. Specifically, the agency stated that it planned to terminate for the convenience of the government the contract award to Centech. Agency Notice of Corrective Action, Sept. 26, 2016, at 1. The agency also stated that it would reevaluate the offerors' proposals and conduct a new best-value determination. Id. Accordingly, on September 27, our Office dismissed the protest as academic.

The agency reevaluated the proposals of ALQIMI and Centech. A summary of the agency's reevaluation is below:⁵

	ALQIMI	Centech
Technical	Outstanding	Good
Technical Approach	Outstanding	Good
Staffing Approach	Outstanding	Good
Processes/Procedures	Outstanding	Good
Past Performance	Satisfactory Confidence	Satisfactory Confidence
Combined Summary Rating	Very Low Risk	Low Risk
Price	\$17,746,615	\$15,362,095

⁴ The solicitation provided that past performance would be assessed as either substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown (neutral) confidence. RFP at 52.

⁵ Based upon the agency's rating of the third offeror under the technical approach factor, that offeror was determined to be ineligible for award. AR, Exh. 7, BCM, at 41.

AR, Exh. 7, BCM, at 40. Under the technical approach factor, ALQIMI's proposal was assigned 17 strengths and no weaknesses, and was determined to propose very low risk. AR, Exh. 4, TEB Report, at 2-3. Centech's proposal was assigned 11 strengths and two weaknesses, and was determined to propose low risk. Id. at 5.

Under the past performance factor, both proposals were assigned ratings of satisfactory confidence. Relevant here, ALQIMI submitted five prior efforts for consideration: two for itself, two for its subcontractor, Booz Allen Hamilton, Inc. (BAH), and one for its subcontractor, PAE Design and Facility Management, Inc. (PAE). Id. at 28; AR, Exh. 2, ALQIMI Proposal, Vol. I, at 51-66. In terms of recency, the agency determined that four of the five efforts were performed within the past three years.⁶ AR, Exh. 7, BCM, at 28. Of those four efforts, the agency determined that one effort did not satisfy the RFP criterion that at least one year of performance had to be completed by the closing date of the RFP.⁷ Id. at 28, 51. Of the remaining three recent efforts, all three were determined to be relevant. AR, Exh. 7, BCM, at 28. The agency sent past performance questionnaires for these three efforts, see AR, Exh. 5, Past Performance Evaluation, at 2, 12-14, 25-26, 29-30, 32, 33-27, but received only one completed questionnaire, which assessed ALQIMI's performance an overall rating of exceptional as the subcontractor on the incumbent contract. Id. at 3-9; AR, Exh. 7, BCM, at 28.

As permitted by the solicitation the agency also obtained past performance information from the Past Performance Information Retrieval System (PPIRS). RFP at 51. Although PPIRS did not contain any assessments for ALQIMI, it did contain information pertaining to the past performance of ALQIMI's subcontractor, BAH, which the agency found to reflect ratings of very good and satisfactory. AR, Exh. 7, BCM, at 29. Based on the PPIRS information relating to ALQIMI's subcontract, the single questionnaire rating ALQIMI's performance as exceptional, and ALQIMI's "proven history of performance against DPRI contracts," the agency found "a reasonable expectation that [ALQIMI] [would] successfully perform the required effort." Id. Accordingly, the agency assigned an overall rating of satisfactory confidence to ALQIMI's proposal under the past performance factor. Id.

⁶ The reference submitted for ALQIMI's subcontractor, PAE, was determined not to have been performed within the three years prior to the RFP release date and was excluded on this basis. AR, Exh. 5, Past Performance Evaluation, at 54; Exh. 7, BCM, at 28, 29.

⁷ The agency determined that the reference submitted by ALQIMI for its performance of Contract No. M67400-15-P-0131 did not satisfy the RFP's criteria for recency. AR, Exh. 7, BCM, at 27, 28; Exh. 5, Past Performance Evaluation, at 15, 31. In this respect, the RFP closed on June 1, 2016, RFP at 1, and the record shows that performance of this effort began on September 8, 2015, AR, Exh. 5, Past Performance Evaluation, at 18, 44.

In its price evaluation, the agency determined that ALQIMI and Centech's proposed prices were fair and reasonable. AR, Exh. 7, BCM, at 38. In reaching this conclusion, the agency compared the offerors' proposed prices to an independent government cost estimate, to historical prices, and to each other. Id. at 37-38.

Based on the evaluations, the source selection authority (SSA) concluded that Centech's proposal provided the best value under the terms of the solicitation. AR, Exh. 7, BCM, at 39-40. In conducting the trade-off, the SSA acknowledged that ALQIMI's proposal was more highly rated under the technical factor and subfactors, noting that ALQIMI "achieve[d] an 'Outstanding' technical rating vice [Centech's] 'Good' technical rating." AR, Exh. 7, BCM, at 39. The SSA explained that "[e]ach strength and weakness was reviewed and assessed as to the value it may provide the Government." Id. at 41. The SSA found, however, that "the material differences of each offer, in terms of overall value/benefit to the government [was] only marginal, and certainly not enough to warrant the price differential of \$2.4 million over a three-year period." Id. at 39.

In addition, the SSA found ALQIMI and Centech's past performance to be equal because "[a]s the prime contractor and the primary subcontractor on the current contract, the Government has satisfactory confidence in continued performance from either contractor."⁸ Id. at 41, 42. The SSA also noted that "[ALQIMI] was rated as 'very low risk,' for combined technical and past performance as compared to [Centech] receiving a 'low risk rating.'" Id. at 42. The SSA explained that "[a]ny perceived risk associated with" the weaknesses assessed to Centech's proposal "was mitigated through analysis and assessment." Id. at 40, 42.

The SSA explained that "[t]he ultimate award decision comes down to whether [ALQIMI's] technical proposal is worth the 16.24 % or \$2.4 [million] higher price." Id. at 42. The SSA found that both offerors' proposed prices were fair and reasonable. Id. at 38. The SSA explained, however, that "[a]lthough [ALQIMI's price was] determined to be a reasonable price, it [was] a significantly higher price than [Centech's] price." Id. at 42. Overall, the SSA concluded that, "[o]n balance, and in consultation and recommendations from the TEB, [the] strengths that contributed to the higher technical rating identified for [ALQIMI] ('Outstanding') were not considered to provide significant additional value to the Government that would offset the substantially higher price (\$2.4 mil/16.24%)." Id. at 41. Accordingly, the agency concluded that Centech's proposal offered the best value to the government, and on December 15, awarded the contract to that firm. This protest followed.

⁸ With regard to price, the SSA determined that both offerors' proposed prices were fair and reasonable. AR, Exh. 7, BCM, at 38

DISCUSSION

The protester challenges numerous aspects of the agency's technical, past performance, and price evaluations, as well as the agency's trade-off analysis. We have fully considered all of ALQIMI's challenges and conclude that none furnishes a basis upon which to sustain the protest. We discuss below several representative claims.

Past Performance Evaluation

As part of ALQIMI's challenge to the agency's past performance evaluation, the protester alleges that the agency improperly excluded one of its past performance efforts after concluding that the effort did not satisfy the RFP's minimum one-year performance requirement. For the reasons discussed below, we conclude that the agency's past performance evaluation was reasonable.

An agency's evaluation of past performance, including its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of agency discretion that we will not disturb unless the agency's assessments are unreasonable or inconsistent with the solicitation criteria. SIMMEC Training Sols., B-406819, Aug. 20, 2012, 2012 CPD ¶ 238 at 4. Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations, and to ensure that the agency's rationale is adequately documented. DynCorp Int'l LLC, B-406523.2, B-406523.3, Dec. 16, 2013, 2014 CPD ¶ 7 at 6.

As noted above, the solicitation stated that, to be considered a recent effort, the offeror must demonstrate that "a minimum of one (1) year of performance has been completed as of the closing date of this RFP." RFP at 51. The record shows that the RFP closed on June 1, 2016. RFP at 1. Performance of the effort in question began on September 8, 2015. AR, Exh. 5, Past Performance Evaluation, at 18, 44. Accordingly, the agency found that the effort did not satisfy the RFP's criteria for recency.

The protester acknowledges that, "at the time of the solicitation closing date, the reference did not satisfy the one-year recency requirement[.]" Supp. Protest at 5. The protester argues, however, that at the time the agency conducted its reevaluation of past performance in response to the earlier protest, performance of the effort had exceeded the one year mark. Id. ALQIMI therefore argues that the agency unreasonably failed to exercise its discretion to consider the effort. Id.

Although the record reflects that, at the time of the reevaluation, the agency was aware that ALQIMI's performance of the effort had reached the one year mark, see AR, Exh. 5, Past Performance Evaluation, at 44, the agency asserts that it still could not consider the effort at that time because "it did not have one year of

performance completed as of the closing date of the RFP.” Supp. MOL at 2. To do so, according to the agency, “would have violated the terms of the RFP.” Id. at 3. We agree.

It is a fundamental principle of government procurement that competition must be conducted on an equal basis; that is, offerors must be treated equally and be provided with a common basis for the preparation of their proposals. Lockheed Martin Corp., B-411365.2, Aug. 26, 2015, 2015 CPD ¶ 294 at 14. Contracting officials may not announce in the solicitation that they will use one evaluation scheme and then follow another without informing offerors of the changed plan and providing them an opportunity to submit proposals on that basis. Fintrac, Inc., B-311462.2, B-311462.3, Oct. 14, 2008, 2008 CPD ¶ 191 at 6.

Here, there is no dispute that the effort did not satisfy the terms of the RFP. Accordingly, the crux of the protester’s argument is that the agency should have waived this solicitation requirement by considering an effort that did not satisfy the solicitation’s one-year recency requirement. On this record, we conclude that it would have been improper for the agency to consider past performance submitted by ALQIMI that did not satisfy the solicitation’s recency requirement, without providing the same opportunity to the other offerors. Accordingly, we find the agency’s decision to exclude the effort from consideration to be unobjectionable. For this reason, we deny this protest ground.

Material Misrepresentation

ALQIMI also challenges the agency’s evaluation of Centech’s proposal, arguing that it was based upon a material misrepresentation. Specifically, ALQIMI asserts that Centech proposed “an additional scheduling specialist” in option year one, but failed to include the additional employee in its price proposal. Supp. Protest at 8. In this respect, ALQIMI contends that Centech’s proposal contained a “false promise” and represents a material misrepresentation. As discussed below, we find no merit to the protester’s argument.

Although ALQIMI asserts that Centech’s proposal materially misrepresented the number of employees that the awardee would provide, the protester merely speculates that Centech did not intend to provide the additional employee as proposed. See Crown Point Sys., B-413940, B-413940.2, Jan. 11, 2017, 2017 CPD ¶ 19 at 10 (to prevail on a claim of material misrepresentation, the record must show that the information at issue is false). In this regard, the protester has failed to provide sufficient evidence to demonstrate that Centech’s proposal misrepresented its intention with regard to the proposed additional staff member. There is no indication from Centech’s proposal, or otherwise, that it will not, or does not intend to, provide the additional staff member as proposed.

Further, even assuming that Centech submitted an offer that was below anticipated costs, there is no prohibition against an agency accepting below-cost prices on a

fixed-price contract. Inchcape Shipping Servs. Holding, Ltd., B-403399.3, B-403399.4, Feb. 6, 2012, 2012 CPD ¶ 65 at 5. In addition, to the extent the protester argues that the agency's price evaluation should have considered the additional costs associated with Centech's approach of providing an additional employee, we note that where, as here, a solicitation does not provide for a price realism analysis,⁹ a determination that an offeror's price on a fixed-price contract is too low generally concerns the offeror's responsibility, *i.e.*, the offeror's ability and capacity to perform the contract successfully at its offered price, which is not a matter that our Office will review. 4 C.F.R. § 21.5(c); Inchcape Shipping Servs. Holding, Ltd., *supra*. On this record, we find no basis to sustain the protest.

Trade-off Analysis

Finally, ALQIMI argues that the agency's award to Centech, a lower-rated, lower-priced offeror, was unreasonable because the SSA failed to look behind the ratings to make a comparative assessment of the qualitative merits of the proposals. As discussed below, we find no merit to this argument.

Generally, in a negotiated procurement, an agency may properly select a lower-rated, lower-priced proposal where it reasonably concludes that the price premium involved in selecting a higher-rated proposal is not justified in light of the acceptable level of technical competence available at a lower price. DynCorp Int'l, LLC, B-412451, B-412451.2, Feb. 16, 2016, 2016 CPD ¶ 75 at 22. The extent of such trade-offs is governed only by the test of rationality and consistency with the evaluation criteria. *Id.* While an agency has broad discretion in making a trade-off between price and non-price factors, an award decision in favor of a lower-rated, lower-priced proposal must acknowledge and document any significant advantages of the higher-priced, higher-rated quotation, and explain why they are not worth the price premium. *Id.* Our Office has found that when SSAs have performed this analysis, it is within their discretion to choose a lower-rated, lower-priced proposal in a best-value procurement. *Id.* at 22-23. A protester's disagreement with the agency's determination, without more, does not establish that the evaluation or source selection was unreasonable. *Id.* at 23.

Here, as discussed above, the record shows that the SSA considered the respective merits of the proposals in accordance with the RFP criteria, and concluded that ALQIMI's more favorable technical rating was not worth the price premium. AR, Exh. 7, BCM, at 18-23, 41. Specifically, the SSA stated that he reviewed and assessed each strength and weakness to determine the value it may provide to the agency. *Id.* at 41. Regarding Centech's proposal, the SSA concluded that its proposal was rated as good largely due to two weaknesses. *Id.*

⁹ As noted above, the RFP provided that the agency would evaluate proposed prices for completeness and reasonableness. RFP at 52.

at 39. The SSA determined, however, that these two weaknesses were not significant; rather, they presented low risk to the government. Id. at 40, 41. With respect to the benefits of each offeror's proposal, the SSA explained that the differences were "only marginal." Id. at 39. Accordingly, the SSA concluded that, "those strengths that contributed to the higher technical rating identified for [ALQIMI] ("Outstanding") were not considered to provide significant additional value to the Government that would offset the substantially higher price (\$2.4 [million] / 16.24)". Id. at 41. On this record, where the SSA clearly acknowledged the benefits associated with the protester's higher-rated, higher-priced proposal, but concluded that the benefits did not merit paying the price premium, we find no basis to sustain the protest.

The protest is denied.

Susan A. Poling
General Counsel