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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Walker Development & Trading Group, Inc.

File: B-413931

Date: January 12, 2017

Terrance Walker, for the protester.

Michelle F. Kantor, Esq., and Mary I. Edquist, Esq., McDonald Hopkins LLC, for RRC Commercial Inc., the intervenor.

David G. Fagan, Esq., Department of Veterans Affairs, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated awardee's quotation is denied where record shows that evaluation of awardee's lower-priced quotation was reasonable and consistent with evaluation criteria.

DECISION

Walker Development & Trading Group, Inc., of Reno, Nevada, a small business, protests the award of a contract to Railroad Cleaners, of Pittsburg, California, by the Department of Veterans Affairs (VA) under request for quotations (RFQ) No. VA262-16-Q-0769 for hospital linen and uniform laundry services for VA hospitals in the San Diego, California area. Walker argues that the quotations were misevaluated and that its quotation was improperly rejected as unacceptable.

We deny the protest.

The VA issued the RFQ on July 7, 2016, as a simplified acquisition commercial item solicitation, seeking quotations for a contractor to provide laundry services for a base year and up to 4 option years under an indefinite-delivery/indefinite-quantity

fixed-price contract. RFQ at 5, 15, 88. The VA subsequently amended the RFQ to designate the procurement as a small business set-aside. RFQ amend. 4 at 2.¹

Among other things, the RFQ contained the following provisions:

3.10. Certification Requirements. Contractor's personnel performing services shall be fully qualified.

3.10.1 "Fully qualified" is defined as trained and experienced to perform the services assigned.

The Contractor shall provide written verification of the competency of their personnel and a list of credentials of approved personnel for placement at the Department of Veteran Affairs medical facility.

3.10.2 The Contractor shall also be required to update this information as changes to staff are made, throughout the life of the contract. The Government Contracting Officer's Representative (COR) reserves the right to reject any of the Contractor's personnel and refuse them permission to work with VA employees if they are determined not "fully qualified" or documentation has not been submitted, and approval given, for the Contractor's personnel to provide needed services.

RFQ at 14.

Separately, the RFQ also stated that the "[c]ontractor must be verified under NAICS [North American Industry Classification System] 812332 - Industrial Launderers and be registered in SAM [System for Award Management] in order to be eligible for award." RFQ at 68.

Quotations were to be evaluated to determine technical acceptability on a pass/fail basis, and to establish an "aggregate total price" based on estimated quantities of the linen and uniform items for which services would be required. RFQ at 70. With respect to technical acceptability, the RFQ specified that the evaluation would be based on three subfactors. One subfactor assessed the suitability of the design of the offeror's facility to segregate clean linen from soiled linen, the second regarded aspects of the offeror's quality assurance program,² and the third assessed the

¹ The contract specialist states that there were three amendments to the RFQ, but they were identified as amendments 4, 5, and 6. Contract Specialist's Statement at 1.

² Although two aspects of the quality assurance plan were identified separately, they were treated as a single subfactor. E.g., Agency Report (AR), Tab 7,
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vendor's contingency plan to ensure services would continue despite various types of disruptions. Id. The RFQ also stated that a contract³ would be awarded to the firm that submitted the lowest-priced technically acceptable quotation. Id.

Several days before quotations were due, the president of Walker sent an email to the VA contract specialist. The email noted that a different VA solicitation for laundry services had expressly included a requirement for offerors to possess a current accreditation from the Healthcare Laundry Accreditation Council (HLAC), and had also expressly required that the services be performed according to HLAC standards. Walker's president then asked "[c]an you clarify if this is the certification or qualification we should have?" Protester's Comments (Nov. 9, 2016), exh. 5, Email from Walker to Contract Specialist, at 1. Several days later, after apparently not receiving a response, Walker's president sent another email that referenced two RFQs (one of which is the RFQ at issue here). This second email stated there had been no response to the earlier inquiry, and asked "[s]pecifically, I need to know if HLAC certified is sufficient for each laundry requirement. If not, then what qualifies as fully qualified?" The contract specialist responded the same day, as follows: "Yes, your HLAC Certification will qualify as being 'fully qualified.'" AR, Tab 12, Emails between Walker and Contract Specialist, July 18, 2016, at 1-2.

As of the RFQ closing date of July 21, the VA received quotations from four offerors, including Walker and Railroad. In evaluating Railroad's quotation, one evaluator initially assessed the firm's facility as unsuitable, but after further consideration of the quotation, the evaluators together determined that the facility was suitable and rated it acceptable under the first subfactor. AR, Tab 7, Consensus Evaluation Forms, at 1. However, the evaluators had unresolved concerns over Railroad's quality assurance plan and rated Railroad's quotation unacceptable under the second subfactor. Id. at 2.

For Walker, the evaluators concluded that the quality assurance plan in its quotation did not meet the RFQ requirements and, accordingly, rated its quotation technically unacceptable as well. Id. at 15. In particular, the evaluators found that Walker's quality assurance plan lacked specificity and appeared to rely on the VA to identify deficiencies, rather than identifying specific procedures that Walker would follow to ensure high-quality services. AR, Tab 8, Debriefing of Walker, at 1; accord. Contract Specialist's Statement at 2.

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Consensus Evaluation Forms at 2, 5, 8, etc. ("Sub-factor 2:B"); Supplemental AR, Tab 13, Initial Evaluation Report, at 4.

³ Although the RFQ stated in one provision that the VA would consider awarding multiple contracts, it stated in another that the agency would award a single contract. RFQ at 5, 88.

In evaluating the price quotations, the VA found that Railroad had offered the lowest evaluated price, at \$4.2 million, while Walker had submitted the second-lowest price, at \$4.5 million.

Around August 11, the contract specialist reviewed the evaluation panel ratings and then conducted her own assessment of Railroad's quality assurance plan. Based on her independent review, she revised the evaluation of the quality assurance plan subfactor to acceptable. As recorded in the contemporaneous record, her reasoning was as follows:

The contract specialist did a review of [Railroad's] quality assurance plan and determin[ed] that [Railroad's] plan was sufficient based on comments and discussions with the technical personnel affirming that their plan was adequate. While the plan they submitted with their proposal [wa]sn't extensive, they offer[ed] to provide all records, audits and calibration tests at any given moment. They test their equipment and have commissioned outside assistance to help with monitoring and testing as well. Also [Railroad] has been providing quality laundry services to the Government for the past several months without issues, reaffirming that they are capable of providing quality service. The contract specialist determines that [Railroad]'s bid is technically acceptable.

Supp. AR, Tab 13, Simplified Acquisition Award Decision Documentation Form, at 4.

On that basis, the contract specialist finalized the award decision, which selected Railroad as the firm that had submitted the lowest-priced technically acceptable quotation. Contract Specialist's Statement at 1. During a subsequent review, the VA determined that the maximum contract value of \$2.5 million, as specified in the RFQ, was incorrect. Id.; see RFQ at 15. Accordingly, on September 11, the VA sent RFQ amendment 6 to the four firms that had submitted quotations. The amendment revised the maximum contract value to \$10 million, and invited the firms to submit new or revised quotations (with any changes to be highlighted) by September 17. RFQ amend. 6 at 2.

The contract specialist explains that the technical evaluation "was already completed," and Railroad's quotation was the lowest-priced, so the agency resumed making the award to Railroad. On September 26, the contracting officer signed the award decision documentation form and awarded the contract to Railroad. On October 4, the VA posted public notice of the award to Railroad, and this protest followed.

ANALYSIS

Walker argues that its quotation was improperly rejected as technically unacceptable, and that the VA improperly found Railroad's quotation acceptable. As explained below, we address the latter argument first, and conclude that Walker has failed to show that the evaluation of Railroad's quotation was unreasonable. As a result, we do not consider Walker's other challenges because it was not prejudiced by any miscalculation of its own quotation. In particular, even if Walker's quotation had been evaluated as acceptable, it would not displace Railroad as the lowest-priced technically acceptable quotation.

Considering the challenges to the evaluation of Railroad's quotation, Walker first focuses on the certification requirements of RFQ ¶ 3.10, quoted above. Walker argues that Railroad does not hold an HLAC accreditation, and therefore could not reasonably be rated technically acceptable. Next, based on documentation received in the initial agency report, Walker argues that the evaluators found Railroad's quotation unacceptable under the second subfactor, the quality assurance plan assessment. Walker argues that both its and Railroad's quotations were evaluated as unacceptable under that subfactor, and thus the VA treated the offerors unequally by awarding the contract to Railroad while rejecting Walker's quotation on the same basis.

With respect to the "Certification Requirements," the VA argues that the RFQ did not mention HLAC accreditation or the need for any accreditation. Rather, the VA argues that the provision required only that personnel be "trained and experienced to perform the services assigned," which does not require that an offeror hold any accreditation. RFQ at 14. Beyond that, the VA argues that it evaluated Railroad's quotation and reasonably determined that the quotation was acceptable because it provided adequate assurance that Railroad would provide adequately-trained and experienced personnel to perform the contract.

Next, with respect to the evaluation of the two firms' quality assurance plans, the VA acknowledges that the evaluators found both firms' plans unacceptable. Nevertheless, the VA argues that the contract specialist made an independent and reasonable reevaluation that revised the rating of Railroad's plan to acceptable, while also confirming that Walker's plan was unacceptable. The VA argues that the contract specialist's actions and rationale were reasonable, appropriately documented in the contemporaneous record, and recognized material differences in the plan described in each firm's quotation.

An agency's evaluation of technical proposals or quotations 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. Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 5-6. In reviewing a protester's challenge to an agency's evaluation, our Office does not reevaluate proposals;

rather, we review the record to determine if the evaluation was reasonable, consistent with the solicitation's evaluation scheme, as well as procurement statutes and regulations, and adequately documented. TransAtlantic Lines, LLC, B-411242, B-411242.2, June 23, 2015, 2015 CPD ¶ 204 at 9. Additionally, source selection officials and higher-level agency evaluators may reasonably disagree with the evaluation ratings and results of lower-level evaluators, and may make an independent evaluation of offerors' proposals, provided the basis for the superseding evaluation is reasonable and documented in the contemporaneous record. Glenn Def. Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 8. In such circumstances, the issue is not whether the agency's final assessments are consistent with the earlier assessments, but whether the superseding evaluation reasonably reflects the relative merits of the proposal and is consistent with the solicitation. Id.

The record here supports the reasonableness of the VA's evaluation of Railroad's quotation as technically acceptable. First, we agree with the VA that the RFQ did not require offerors to possess an industry certification, such as the HLAC certification that the protester argues was required. No such requirement appears in the RFQ (as Walker itself noted in posing a question that contrasted another laundry solicitation with the one at issue here, see Protester's Comments (Nov. 9, 2016), exh. 5, Email from Walker and Contract Specialist, at 1), and the agency's answer to Walker's later question stated only that the HLAC certification was sufficient, not that one was required.

We also find the record reasonably supports the contract specialist's decision to revise the evaluation of Railroad's quality assurance plan subfactor from unacceptable to acceptable. The contemporaneous record explains that the contract specialist recognized that the plan in Railroad's quotation was not extensive, but that it did provide for calibration of equipment, third-party audits, and unlimited access by the VA to documentation of the results, which would suffice. We find that these comments were sufficient to document the contract specialist's judgment that Railroad's quotation was acceptable under the quality assurance plan subfactor, in the context of this commercial item acquisition. Further, the specific information in Railroad's quotation is consistent with the rationale in the contract specialist's evaluation. Accordingly, we deny Walker's challenges to the evaluation of Railroad's quotation.⁴

⁴ Although Walker also argues that it was improper for the contract specialist to include consideration of Railroad's past performance in her rationale for revising the quality assurance plan subfactor rating, we will not sustain the protest on that basis. In our view, the observation about Railroad's performance is extraneous, and the Contract Specialist's rationale is adequate to support the changed rating without any reference to past performance. Walker also argues that the VA improperly relied on the evaluation of the July 21 quotations, despite inviting the submission of
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Lastly, it is not necessary to consider Walker's challenges to the evaluation of its own quotation, and its argument that it was treated unequally when the contract specialist did not similarly revise the evaluation of Walker's quotation under the quality assurance plan subfactor to acceptable, because Walker was not prejudiced by any errors in those respects. That is, even assuming that Walker's quotation should have been rated technically acceptable, it remained higher priced than Railroad's quotation. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc. v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

Here, the RFQ provided that the VA would award a contract to the firm that submitted the lowest-priced technically acceptable quotation. Since Walker's quotation was higher-priced than Railroad's technically acceptable quotation, any error in the evaluation of Walker's quotation did not affect the likelihood of it being awarded the contract.

The protest is denied.

Susan A. Poling
General Counsel

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revised quotations by September 17. The VA explained that a new evaluation was unnecessary, while Walker has not shown that Railroad modified its technical quotation in September. Our own review of the record provides no support for Walker's argument, so we deny both challenges.