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Decision

Matter of: CRAssociates, Inc.

File: B-414171.2; B-414171.3

Date: January 16, 2018

Matthew R. Keller, Esq., Matthew Keller Law, PLLC, for the protester.
Melody A. Goldberg, Esq., Donald C. Mobly, Esq., Department of Veterans Affairs, for the agency.
Michael Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency's price evaluation failed to reasonably assess the risk of awardee's low pricing is denied where the solicitation did not provide for a price realism evaluation.
 2. Protest that agency failed to assess strengths for certain aspects of protester's proposal is denied where the protester's arguments amount to disagreement with the agency's evaluation and the agency's evaluation was reasonable.
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DECISION

CRAssociates, Inc. (CRA), of Newington, VA, protests the award of a contract to STG International, Inc., of Alexandria, VA, under request for proposals (RFP) No. VA263-17-R-0013, issued by the Department of Veterans Affairs for community-based outpatient clinic services in North Dakota. The protester alleges that the agency erred in evaluating both the awardee's and CRA's proposals.

The protest is denied.

BACKGROUND

The RFP was issued on October 24, 2016, as a commercial item procurement under Federal Acquisition Regulation part 12, and contemplated the award of a fixed-price indefinite-delivery, indefinite-quantity contract for clinical services for veterans with one base-year and four option-years. RFP at 1, 5. The RFP provided that proposals would be assessed on the basis of the following factors, listed in descending order of

importance: (1) technical capability, comprising subfactors for (a) quality; (b) management, experience, staffing, and transition plan; and (c) geographic location; (2) past performance; (3) veterans preference; and (4) price. RFP at 124-128. The RFP indicated that price would be evaluated for fairness and reasonableness, and award would be made to the offeror with the proposal considered to be most advantageous to the agency based on the technical factors and price. RFP at 128.

On December 6, CRA filed a protest with our Office, contending that the solicitation was defective because, among other arguments, it did not include a price realism evaluation. See CRAssociates, Inc., B-414171, Mar. 16, 2017, 2017 CPD ¶ 92 at 1-2. On March 16, 2017, we denied CRA's protest, concluding, in relevant part, that the agency had broad discretion regarding the decision not to include a price realism evaluation when awarding a fixed-price contract, and we had no basis to conclude that the agency's decision not to include one was unreasonable. Id. at 5.

On March 30, 2017, the agency received [DELETED] proposals, to include proposals from STG and CRA. Agency Report at 7. On June 8, the agency selected all [DELETED] proposals for inclusion in the competitive range. Id. The agency held discussions with all offerors, and all [DELETED] offerors submitted revised proposals. Id. Following the evaluation of revised proposals and review by the source-selection authority (SSA), CRA received an acceptable rating for all three technical sub-factors,¹ and an overall technical rating of acceptable with a total evaluated price of \$17,098,620. STG received two good ratings and one acceptable rating for the technical subfactors, and an overall rating of good with a total evaluated price of \$13,882,440. Id. at 9 and Source Selection Decision Document at 14. The agency ultimately awarded the contract to STG, and the agency notified the unsuccessful offerors of the award on September 29. Contracting Officer's Statement of Facts at 2. This protest followed.

DISCUSSION

The protester argues that the agency erred in evaluating both its and STG's proposals. Specifically, CRA contends that STG's low price reflected an inadequate understanding of the requirements of the contract, and that STG should have received a significant technical weakness stemming from alleged risks posed by its low price. Protest at 8-10. Additionally, CRA contends that its proposal should have been rated "outstanding"

¹ During the evaluation, the agency assessed CRA as unacceptable under the geographic location subfactor due to concerns expressed by the technical evaluation team about parking arrangements and the layout of certain clinical locations. Agency Report at 7. After reviewing the technical evaluation team's recommendations, the SSA concluded that CRA merited an acceptable rating for the geographic location subfactor, and raised CRA's rating. Id. at 8

instead of “acceptable” under the technical capability factor based on the many unacknowledged technical strengths of its proposal.²

In reviewing a protest against an agency’s evaluation of proposals, our Office will not substitute our (or the protester’s) judgment for that of the agency; rather, we will examine the record to determine whether the agency’s judgments were reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. U.S. Textiles, Inc., B-289685.3, Dec. 19, 2002, 2002 CPD ¶ 218 at 2. In this regard, the evaluation of an offeror’s proposal is a matter within an agency’s broad discretion, since the agency is responsible for defining its needs and the best method for accommodating them. Id. A protester’s disagreement with an agency’s judgment is insufficient to establish that the agency acted unreasonably. Fiserv NCSI, Inc., B-293005, Jan. 15, 2004, 2004 CPD ¶ 59 at 9.

CRA’s first argument, that the agency should have assigned STG a weakness due to alleged risks posed by STG’s low price, is, in effect, suggesting that the agency should have performed a price realism evaluation. A price realism evaluation, which involves an assessment of whether a price is too low, is conducted for the purpose of assessing a vendor’s understanding of the contract requirements or to assess the risk inherent in a vendor’s proposal or quote. Ball Aerospace & Techs. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. In order to conduct a price realism analysis, an agency must provide for such an analysis in the solicitation. Id. However, where, as in this case, the solicitation does not provide for a price realism evaluation, an agency is neither required nor permitted to perform one. See Crown Point Systems, B-413940, B-413940.2, Jan. 11, 2017, 2017 CPD ¶ 19 at 5.

While CRA argues that a price realism evaluation was implied by certain other provisions of the solicitation, see Protester’s Comments on the Agency Report at 4-5, that argument is not supported by the plain language of the RFP, which provides only that price will be assessed for fairness and reasonableness. RFP at 128. The absence of such an implied price realism evaluation in this solicitation is further underscored by the fact that CRA unsuccessfully protested the terms of this very solicitation on the basis that it did not contain a requirement for a price realism analysis. See CRAssociates, Inc., supra. This argument is therefore without merit.

CRA further argues that it should have received an “outstanding” technical rating on the basis of ten allegedly unacknowledged strengths in its proposal, such as its proposal of a detailed quality monitoring plan, or the fact that CRA could offer a seamless, low-risk transition, with fully-staffed clinics and a trained and credentialed workforce, due to the

² On November 20, 2017, CRA filed a supplemental protest alleging that the awardee should have been found ineligible for award due to an alleged failure to include mandatory elements in its proposal. Protester’s Comments on the Agency Report at 9-10. The agency filed a supplemental agency report addressing this protest ground, and CRA subsequently withdrew its supplemental protest.

fact that it was the incumbent contractor. Protester's Comments on the Agency Report at 6. CRA notes that many of these features of its proposal are not specifically addressed in the documentation of the technical evaluation, and that the agency erred by failing to consider them. Id. at 6-7.

As a preliminary matter, some of the allegedly unacknowledged strengths of CRA's proposal were expressly considered by the agency as part of its technical evaluation, but either formed part of the basis of one of CRA's assigned strengths, or were not determined to merit a strength. For example, CRA's experience as an incumbent and its ability to provide trained staff were specifically assessed as strengths. Technical Evaluation Team Consensus Report at 3. Conversely, it is also clear that certain elements of CRA's proposal were not considered positively because the technical evaluation team noted that there were multiple occasions where the proposal did not accurately reflect current performance or was otherwise misleading.³ Id. at 4.

CRA is correct, however, that some aspects of its proposal that it believes merited strengths were not specifically discussed in the agency's technical evaluation. However, an agency is not required to document all "determinations of adequacy" or explain why a proposal did not receive a strength, weakness, or deficiency for a particular item. Allied Tech. Group, Inc., B-412434, B-412434.2, Feb. 10, 2016, 2016 CPD ¶ 74 at 13. In the absence of specific discussion of some of the elements identified by the protester, it is reasonable to conclude that the agency considered them, but did not find that they merited either a strength or a weakness. The protester simply disagrees with the agency as to the merit of its proposed approach, and such disagreement, without more, does not form the basis for us to conclude that an evaluation was unreasonable. See DynCorp International LLC, B-412451, B-412451.2, Feb. 16, 2016, 2016 CPD ¶ 75 at 7-8. On this record, we have no basis to conclude that the agency's evaluation of CRA's proposal was unreasonable.⁴

The protest is denied.

Thomas H. Armstrong
General Counsel

³ For example, the Technical Evaluation Team notes that CRA's proposal both contained misleading information about staff turnover, and indicated that CRA's most recent accreditation survey had no findings, when, in fact, the survey identified negative issues with lab reporting. Technical Evaluation Team Consensus Report at 4.

⁴ CRA additionally argued that, because of the evaluation errors described above, the agency also erred in conducting its best-value tradeoff. Protest at 12-14. However, because we conclude above that the agency's evaluation was not unreasonable, this argument is also without merit.