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Decision

Matter of: Right Direction Technology Solutions, LLC

File: B-414366.2

Date: June 13, 2017

Jerry Alfonso Miles, Esq., Angeline R. Burke, Esq., and Christine Funk, Esq., Deale Services, LLC, for the protester.

Donald J. Walsh, Esq., Wright, Constable, & Skeen, LLP, for SciTech Services, Inc, the intervenor.

Erica A. Harder Smith, Esq., and Wade L. Brown, Esq., Department of the Army, for the agency.

Peter D. Verchinski, Esq., and Amy B. Pereira, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's technical evaluation is denied where the evaluation was reasonable and consistent with the stated evaluation criteria.

DECISION

Right Direction Technology Solutions, LLC (RDTS), of Baltimore, Maryland, protests the award of a contract to SciTech Services, Inc., of Havre de Grace, Maryland, under request for proposals (RFP) No. W911NF-16-R-0020, which was issued by the Department of the Army, Army Contracting Command, for Small Business Innovative Research (SBIR) and Small Business Technology Transfer (STTR) program management and technical support services. The protester alleges that the agency conducted a flawed evaluation of its own and the awardee's proposals.

We deny the protest.

BACKGROUND

The Army issued the RFP on September 26, 2016, under Federal Acquisition Regulation (FAR) part 15, as a set-aside for small business concerns to provide support for the Army's SBIR/STTR program management office in the form of program management and technical services that assist the government's in-house efforts and expertise. RFP at 11, 64. The RFP anticipated the award of a cost-plus-fixed-fee

contract with a base period of 1 year and four 1-year options. Id. at 9. The RFP provided that award would be made on a best-value basis, considering five evaluation factors: (1) technical; (2) management and quality assurance plan; (3) transition and business planning development; (4) past performance; and (5) cost. Id. at 71-72. The technical; management and quality assurance plan; and, transition and business planning development evaluation factors were of equal importance, and each factor was more important than the past performance evaluation factor, which was more important than cost. Id. at 71.

The RFP stated that proposals would be assigned adjectival ratings of outstanding, good, acceptable, marginal, or unacceptable under the technical; management and quality assurance plan; and, transition and business planning development evaluation factors.¹ Id. In order to be eligible for an award, an offeror had to receive no less than a “good” rating under each of these three factors. Id. at 75. Consequently, a rating of acceptable (or below) under these evaluation factors rendered a proposal technically unacceptable. The fourth evaluation factor, past performance, would be evaluated for recency, relevancy, and quality.² Id. at 73.

With regard to the technical evaluation factor, the RFP provided that the agency would evaluate, among other things, the education and experience of the offeror’s proposed project team.³ Id. For the team, offerors were to submit the names and individual qualifications of each proposed key personnel. RFP at 68. The RFP identified 13 key personnel positions: a team leader/project manager, a technical assistance advocate (TAA) team lead, nine TAAs, a financial management specialist, and a junior

¹ An outstanding rating indicated a proposal that had an exceptional approach and understanding of the requirements, contained multiple strengths, and had a low risk of unsuccessful performance. RFP at 73. A good rating indicated a proposal that had a thorough approach and understanding of the requirements, contained at least one strength, and had a low to moderate risk of unsuccessful performance. Id. An acceptable rating indicated a proposal that met the requirements and had an adequate approach and understanding of the requirements, and a risk of unsuccessful performance that was no worse than moderate. Id. A marginal rating indicated a proposal that had not demonstrated an adequate approach and understanding of the requirements, and/or had a high risk of unsuccessful performance. Id.

² Past performance would then be assigned a rating of substantial, satisfactory, neutral, limited, or no confidence. Id. at 75.

³ Under this factor, the agency would also evaluate the offeror’s approach and ability to perform the tasks required by the performance work statement (PWS), as well as the offeror’s plan to execute the tasks. Id. The RFP stated that the agency would view it as a significant strength under this evaluation factor if the offeror “[d]emonstrated specific/relevant DOD [Department of Defense] and SBIR or related technical experience.” Id. at 71.

programmer/database manager.⁴ Id. at 9, 22-23. Each of the key personnel was required to have certain specific credentials. Id. at 22-23. As relevant to this protest, the team leader/project manager was required to have “6 years of relevant, recent experience in program management and personnel management.” Id. at 22. In addition, the TAAs were required to be “senior technical analysts” and were required to hold an advanced technical degree. Id. at 23. The RFP stated that “the term ‘advanced technical degree’ includes only Science & Technology concentrations and does not include MBA [Master of Business Administration] or other advanced business degrees.” Id. at 23.

The Army received seven proposals, including RDTS’s and SciTech’s, by the October 3, 2016 closing date. The agency’s technical evaluation panel conducted an evaluation of the offerors’ proposals, and rated RDTS’s as follows:

	RDTS
Technical	Acceptable
Management and Quality Assurance Plan	Good
Transition and Business Planning Development	Outstanding
Past Performance	Satisfactory Confidence
Evaluated Cost	\$18,587,850

Agency Report (AR), Tab 13, Source Selection Decision Document (SSDD), at 4.

The agency’s ratings for the first three evaluation factors were supported by narrative explanations, which identified the strengths, significant strengths, weaknesses, significant weaknesses, and deficiencies under each evaluation factor. AR, Tab 10, Technical Evaluations Forms, at 1-6.

As relevant to this protest, RDTS received, under the technical evaluation factor, two strengths, one significant strength, one weakness, three significant weaknesses, and no deficiencies. AR, Tab 10, Consensus Evaluation Form, at 1-2. The two strengths RDTS received were for offering 11 incumbent employees, which the agency viewed as providing a continuity of operations, and for past experience in budget tracking and

⁴ In addition to these 13 positions, the RFP stated the agency “estimates an additional 4 FTEs [Full Time Equivalents] in supplement to the key personnel to assist in carrying out the PWS” RFP at 9.

reporting in the SBIR context, which the agency viewed as providing proof of successful execution of similar tasks. Id. at 1. The agency assigned a significant strength because the offeror demonstrated relevant experience in several areas. Id. The weakness RDTs received was for the experience of the firm's team leader/project manager. The agency found that, while RDTs stated the team leader/project manager had over 10 years' experience working with the Department of Defense, the team leader's resume only included 3 years of work experience, and that work experience did not demonstrate significant contract management or personnel management. Id. at 2. The three significant weaknesses the protester received were for (1) proposing a TAA (Dr. O) who did not demonstrate in his resume proficiency in certain areas required in the PWS, (2) proposing a TAA (again, Dr. O) who did not meet the advanced degree requirement and (3) proposing a second TAA (Dr. C) who did not meet the advanced technical degree requirement. Id.

The contracting officer, who was the source selection authority (SSA) for this procurement, reviewed the source selection evaluation board (SSEB) evaluation for each proposal, and conducted his own assessment of the proposals' strengths and weaknesses. AR, Tab 13, Memorandum of Source Selection Decision (MSSS), at 3. With regard to RDTs, the SSA specifically noted that it was of "significant concern" that two key personnel did not meet the minimum degree requirements, and also noted that the team leader's relevant work experience was not supported by her resume. Id. at 8. The SSA nevertheless noted that RDTs "possesses good experience, as the subcontractor on the proposal is the current incumbent," and that the offeror had demonstrated successful execution of similar tasks. Id. The SSA found that, given multiple significant weaknesses combined with numerous strengths, he concurred with the SSEB's finding of acceptable. Id.

In his best-value determination, the SSA conducted a trade-off between SciTech's cost and ratings, and the cost and ratings of another firm (firm A). The SSA noted that these two firms were the only firms eligible for award, as no other firms received a rating of good or better under the technical; management and quality assurance plan; and, transition and business planning development evaluation factors. Id. at 10. The SSA determined that SciTech's proposal represented the best value to the agency, and selected SciTech for award. Id.

Following a debriefing, RDTs filed this protest.

DISCUSSION

RDTs raises numerous challenges to the agency's evaluation of its proposal and the awardee's proposal. Protest at 1-22. We primarily discuss the protester's challenges to its "acceptable" rating under the technical evaluation factor. In this regard, RDTs argues that the agency improperly lumped several strengths together into one significant strength, engaged in disparate treatment by failing to assign strengths to RDTs' proposal that it assigned to SciTech's proposal, and improperly assigned weaknesses to RDTs' proposal. While we do not specifically discuss each of the

protester's arguments, we have considered all of them and find that none provides a basis to sustain the protest.

The evaluation of an offeror's proposal is a matter within the agency's discretion. National Gov't Servs., Inc., B-401063.2 et al., Jan. 30, 2012, 2012 CPD ¶ 59 at 5. A protester's disagreement with an agency's judgment in evaluating proposals is insufficient to establish that the agency acted unreasonably. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4. In reviewing protests of an agency's evaluation and source selection decision, we will not reevaluate proposals; rather, we will review the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria, and applicable procurement laws and regulations. Keeton Corrections, Inc., B-293348, Mar. 4, 2004, 2005 CPD ¶ 44 at 6. Given the record before us, we have no reason to find the agency's evaluation of RDTs' proposal unreasonable or otherwise improper.

The protester asserts that the agency's evaluation was improper because the agency assigned a single significant strength because the

Offeror demonstrated specific/relevant DOD and SBIR or related technical experience with over 10 years' experience supporting Army Program Management offices. There is also demonstrated experience with the Army transition process, PoRs and technology. Subcontractor USI has 3 years of current experience in supporting the Army SBIR/STTR PMO as the incumbent, providing specific experience with the tasks in the PWS.

AR, Tab 10, Consensus Evaluation Form, at 1-2. RDTs asserts that the agency erred in finding this to be a significant strength because each of these three sentences should have been found to be separate strengths, such that the first two sentences are separate strengths, and the third sentence is a significant strength. Protester's Comments at 3-5.

We find no merit to this allegation. As an initial matter, this argument is based on a faulty premise, that is, by assigning additional strengths RDTs's proposal would be, by some unstated calculus, found to be more technically superior than it already was found to be. See L-3 Communications, L-3 Link Simulations and Training, B-410644.2, Jan. 20, 2016, 2016 CPD ¶ 44 at 5. However, as we have long noted, evaluation scores--whether they are numeric or adjectival ratings, or whether they involve the assignment of strengths--are merely guides to intelligent decision making. enrGies, Inc., B-408609.9, May 21, 2014, 2014 CPD ¶ 158 at 8. The scores or the number of strengths assigned to proposals are not dispositive metrics for an agency to express a proposal's merit. What is important is not the scores themselves, but the underlying substantive merits of the proposals as embodied in, or reflected by the scores, along with the underlying narrative description that supports the assignment of those scores. Id.

Here, in the narrative explanation for the significant strength, the agency's technical evaluation considered the underlying merits of RDTs's proposal. Furthermore, the agency's source selection decision memorandum reviewed the technical evaluation findings, and took into consideration the various strengths assigned to RDTs' proposal. Given this, there is no indication that the agency was unaware of the merits of RDTs' proposal as contained in the narrative description of this significant strength, or that listing these merits as additional strengths would have had any effect on RDTs' rating. Consequently, we find nothing improper with the agency's evaluation in this regard.

The protester also argues that the agency engaged in an unequal evaluation because SciTech and RDTs proposed similar or identical approaches to performing the services, and yet only SciTech received strengths for those approaches. Specifically, RDTs asserts that both proposed weekly meetings with the government customer, both had experience demonstrating outreach for the SBIR/STTR program, and both proposed to utilize Skype. Protester's Comments at 5-7.

It is a fundamental principle of federal procurement law that a contracting agency must treat all offerors equally and evaluate their proposals evenhandedly against the solicitation's requirements and evaluation criteria. ADNET Sys. Inc. et al., B-408685.3 et al., June 9, 2014, 2014 CPD ¶ 173 at 16. 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 offerors' proposals. Beretta USA Corp., B-406376.2, B-406376.3, July 12, 2013, 2013 CPD ¶ 186 at 6. RDTs has not made this showing.

Here, the agency's supplemental report explains, and the protester does not dispute, that SciTech was assessed strengths for approaches that differed from RDTs' approaches. With regard to the weekly meetings, the agency explains that SciTech proposed weekly project team meetings that offered face-to-face interactions, while RDTs merely proposed to provide weekly written reports to the government. Second Supp. AR at 4-5. With regard to demonstrating outreach experience, the agency explains that SciTech provided a detailed discussion of specific instances where it provided such outreach, while RDTs failed to provide the same level of detail. Id. at 5. Finally, with regard to Skype, the agency notes that SciTech's technical proposal proposed utilization of Skype as part of contract performance, while RDTs' technical proposal only mentioned Skype in the context of work performed on a resume. Id. Given that the offerors provided different approaches, we find nothing improper with the agency assigning strengths to SciTech's approaches, but not assigning the same strengths to RDTs's approach.

The protester also argues that the agency improperly assigned weaknesses to its proposal under the technical evaluation factor. In this regard, RDTs challenges each of the identified weaknesses its proposal received under the technical evaluation factor, arguing generally that the weaknesses were improper because its proposed personnel had the required experience and qualifications. We disagree.

First, RDTs challenges the agency's evaluation of its team leader/project manager. As stated above, the RFP required the team leader/project manager to have "6 years of relevant, recent experience in program management and personnel management." RFP at 22. RDTs asserts that its team leader's resume demonstrated four years of relevant experience, and that its proposal "specifically indicated that '[a]dditional experience not provided due to page limitations.'" Protester's Comments at 7. RDTs challenges the agency's decision to assign a weakness without seeking clarifications to "follow[] up with RDTs as permitted by the RFP," and without properly reviewing the team leader's experience. Id. at 8.

Here, while the protester asserts that its proposed team leader's resume demonstrated four years relevant experience, RDTs does not dispute that its proposed team leader's resume failed to include six years of relevant, recent experience in program and personnel management, as required by the solicitation. Given this, we find the agency's assignment of a weakness to RDTs' proposal to be reasonable. Furthermore, with regard to the agency's alleged failure to seek clarifications, the agency had no obligation to affirmatively seek out additional experience for this individual simply because RDTs's proposal stated "[a]dditional experience not provided due to page limitations." AR, Tab 8, RDTs Proposal. Vol. 1, at 56; see STG, Inc., B- 411415, B-411415.2, July 22, 2015, 2015 CPD ¶ 240 at 9 ("offerors have no automatic right to clarifications regarding proposals"). It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. ACC Constr.-McKnight JV, LLC, B-411073, Apr. 30, 2015, 2015 CPD ¶ 147 at 5. An offeror runs the risk that a procuring agency will evaluate its proposal unfavorably where it fails to do so. Int'l Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 7. Given this, we find nothing unreasonable about the agency's evaluation of RDTs' team leader.

Next, RDTs challenges the agency's assignment of two significant weaknesses to its proposal--one significant weakness for Dr. C and one for Dr. O--for failing to offer TAAs with the required degrees. As stated above, the RFP required TAAs to hold an "advanced technical degree" and specifically provided that an MBA or other advanced business degree did not qualify. RFP at 23. RDTs does not dispute that it proposed two individuals who failed to have the required degrees. Specifically, Dr. C held an MBA degree and Dr. O held a Doctor of Business Administration degree, and neither held an advanced technical degree. AR, Tab 8, RDTs Proposal. Vol. 1, at 77, 80. RDTs argues, however, that the agency should have evaluated its team as a whole, and assigned a single significant weakness for the failure to provide personnel that met the agency's requirements. We disagree.

The RFP clearly stated that the "proposed project team" would be evaluated, and it was reasonable for the agency to evaluate the members of the team. Nothing in the

solicitation required the agency to evaluate the team in the manner RDTs now alleges. Given this, we find nothing improper with the agency's evaluation.⁵

Given that none of the protester's challenges to the agency's evaluation of the protester's proposal under the technical evaluation factor have merit, we find that the agency reasonably evaluated RDTs' proposal as acceptable under the technical evaluation factor.

The protester raises other challenges to the agency's evaluation of its proposal. The protester alleges that it should have received an outstanding rating under the management and quality assurance plan evaluation factor, that it should have received a substantial confidence past performance rating, and that the agency improperly evaluated its cost. Protest at 20-34. However, the solicitation, as described above, warned offerors that an evaluation rating of "acceptable" (or below) for the technical; or management and quality assurance plan; or, transition and business planning development evaluation factor would result in the offeror's proposal no longer being considered for award. Therefore, while RDTs challenges the agency's evaluation of its proposal under the other factors, we need not address those contentions as the agency reasonably found that RDTs was rated acceptable under the technical evaluation factor, which rendered RDTs's proposal unawardable.

Finally, in addition to challenging its own proposal, the protester raises several challenges to the awardee's proposal. For example, the protester challenges the agency's evaluation of the awardee's past performance and the awardee's personnel. The protester, however, is not an interested party to raise these allegations. Our Bid Protest Regulations define an "interested party" as an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a)(1). Where the protester would not be in line for award even if it prevailed on its protest allegations, the protester is not interested to maintain its protest. Tyonek Worldwide Servs., Inc., DigiFlight, Inc., B-409326 et al., Mar. 11, 2014, 2014 CPD ¶ 97 at 7, recon. denied, Tyonek Worldwide Servs., Inc.--Recon., B-409326.6, May 15, 2014, 2014 CPD ¶ 156. As noted above, the agency's evaluation found that two proposals, SciTech's and firm A's, were rated "good" or "outstanding" under the technical; management and quality assurance plan; and, transition and business planning development evaluation factors. Consequently, these

⁵ RDTs also asserts that the agency's evaluation of Dr. O's experience was improper because the individual, in fact, had the required PWS experience. We disagree. The RFP required offerors to demonstrate that their proposed TAAs had experience in PWS sections 2.3.1 (Transition and Technical Experience), 2.3.2 (Technical Assistance Advocates), and 2.3.3 (Commercialization Assistance). RFP at 23. The agency explains, and we agree, that the record shows that, while Dr. O had general contract experience with the government in these areas, Dr. O did not have experience in the SBIR/STTR setting, as each of these PWS sections required. Given this, we find nothing improper with the agency's evaluation.

two firms were eligible for award. RDTS has not challenged any aspect of the evaluation of firm A. It follows that, even if RDTS's contentions concerning SciTech's proposal were true, firm A would be in line for award ahead of RDTS. Accordingly, we conclude that RDTS lacks the direct economic interest required to maintain these protest allegations. We therefore dismiss these contentions.

The protest is denied.

Susan A. Poling
General Counsel