



Decision

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Matter of: Innovative Solutions, Inc.

File: B-414650.8; B-414650.13

Date: May 2, 2018

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DIGEST

Protest that agency's technical evaluation was unequal and unreasonable is denied where the record demonstrates that differences in the quotations supported differing evaluation results.

DECISION

Innovative Solutions, Inc., a small business located in McLean, Virginia, protests the issuance of a task order to Inersso Corporation, a small business located in Vienna, Virginia, under request for quotations (RFQ) No. HSCETC-17-Q-00010, issued by the Department of Homeland Security (DHS) for information technology operations support services (ITOSS). The protester argues that the agency unequally assigned strengths to Inersso's quotation, inadequately documented the evaluation, and assigned adjectival ratings that were inconsistent with the evaluation criteria.

We deny the protest.

BACKGROUND

On March 31, 2017, DHS issued the RFQ, which consolidated seven separate ITOSS task orders into one task order under DHS's Enterprise Acquisition Gateway for Leading Edge Solutions (EAGLE) II indefinite-delivery, indefinite-quantity (IDIQ) multiple-award contract vehicle. The effort solicited includes the provision of a service desk,

information technology (IT) field operations, cabling, video teleconferencing, hardware/maintenance, deployment, and financial/travel system support services, all in support of the U.S. Immigration and Customs Enforcement's (ICE) Office of the Chief Information Officer Operations Division.

The RFQ anticipated that the resulting task order would be a hybrid fixed-price, time-and-materials, and labor-hour task order with a 12-month base year and three 12-month option years. RFQ at 1.¹ The solicitation called for the evaluation of four factors, in descending order of importance: management approach, technical approach, past performance, and price. Id. at 10. The non-price factors, when combined, were significantly more important than price. Id.

Under the management approach factor, the RFQ contemplated the evaluation of the degree to which each vendor's management approach reflected "an effective, efficient, feasible, and practical level of understanding of the operating environment and management methods for accomplishing the tasks and deliverables of the [performance work statement (PWS)], with minimal risk, and innovative and cost effective ideas." Id. at 11. The agency stated it would also evaluate each vendor's project management strategy, including indicators showing how the project would be implemented and the vendor's ability to manage resources and multiple groups of stakeholders. Id.

For the technical approach factor, the RFQ contemplated the evaluation of: (1) the extent to which each vendor's quotation demonstrated the knowledge, skill, and ability to fulfill relevant PWS requirements, (2) the extent to which the quotation demonstrated an understanding of IT operations challenges and convincingly justified how the vendor's approach would solve such challenges, and (3) the quotation's recommendations for improvements in knowledge management, remote support, and user self-help. Id. at 13.

On May 8, the agency received a total of 11 quotations from interested vendors, including quotations from Insero and Innovative. On September 29, following discussions and the submission of revised quotations, DHS issued a task order for the ITOSS requirement to Insero. Following the issuance of the task order, our Office received protests from several vendors, including Innovative. DHS subsequently agreed to take corrective action by conducting another round of discussions and permitting vendors to submit revised quotations.

¹ Unless otherwise indicated, citations to the RFQ refer to the amended RFQ provided in Tab 25 of the agency report (AR).

Following the submission of final quotations from 10 vendors,² the agency evaluated the quotations of Inerso and Innovative as follows:

	Inerso	Innovative
Management Approach	Excellent	Good
Technical Approach	Excellent	Acceptable
Past Performance	Substantial Confidence	Substantial Confidence
Total Price	\$192,261,426	\$147,641,533

AR, Tab 330, Source Selection Decision Memorandum (SSDM), at 22-26.

On January 31, 2018, the agency reaffirmed its decision to issue the subject task order to Inerso, finding that Inerso's quotation conformed to all solicitation requirements and provided the best value to the agency. Id. at 26. This protest followed.³

DISCUSSION

The protester primarily argues that the agency unequally assigned strengths to Inerso's quotation under the management approach and technical approach factors. The protester also asserts that DHS inadequately documented its evaluation of Innovative's quotation and assigned adjectival ratings that were inconsistent with the evaluation criteria.⁴

² One vendor withdrew its quotation.

³ The awarded value of the task order at issue exceeds \$10 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts that were awarded under the authority of Title 41 of the U.S. Code. 41 U.S.C. § 4106(f)(1)(B).

⁴ While we do not address in detail every argument raised by Innovative in its protest, we have reviewed each issue and do not find any basis to sustain the protest. For example, the protester argues that the agency deviated from the stated evaluation criteria by assigning Innovative "depressed adjectival ratings," which did not match the definitions provided in the RFQ, under both the management and technical approach factors. Protest at 5. Based on our review of the evaluation record, we find no merit to this argument. In this regard, we find that the assigned adjectival ratings were reasonable in light of the agency's qualitative assessment of the strengths offered by Innovative's approach, which the agency concluded did not demonstrate exceptional understanding or substantial program benefit. See AR, Tab 307, Innovative Factor 1 Technical Evaluation Team (TET) Consensus Report, at 5; AR, Tab 330, SSDM, at 24. Moreover, we note that the source selection authority (SSA) conducted a qualitative assessment, which looked beyond the adjectival ratings assigned to Innovative and Inerso, to compare the strengths and features of both vendors' approaches.

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A contracting agency's evaluation of quotations in a task order competition is a matter within the agency's discretion. Technatomy Corp., B-411583, Sept. 4, 2015, 2015 CPD ¶ 282 at 4. In reviewing an agency's evaluation, we will not reevaluate quotations; rather we will examine the evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. Id. at 4-5. 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 vendors' quotations. See Raytheon Co., Space & Airborne Sys., B-411631, Sept. 16, 2015, 2015 CPD ¶ 361 at 8.

Unequal Treatment

The protester argues that DHS unequally credited Insero with strengths, under both the management approach and technical approach factors, for certain features of its proposed approach, but failed to assign strengths for similar aspects of Innovative's approach. Supplemental Protest at 4. According to the protester, the agency made Insero's quotation the benchmark, and assigned strengths to Innovative only where it proposed the same approach as Insero. The protester additionally argues that, even where Innovative's approach differed from the corresponding Insero approach, the agency should have assigned it a strength where the approach provided the same benefit to the agency as Insero's approach or otherwise exceeded the solicitation requirements to DHS's benefit.⁵

Based on our review of the evaluation record, we find no merit to the protester's arguments. Instead, the record demonstrates that the agency credited Insero's

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Ultimately, the SSA concluded that the benefits offered by Insero's approach warranted the payment of a price premium over Innovative's lower-priced quotation.

⁵ In its comments on the agency report, the protester suggests, for the first time, that the agency should have assigned additional strengths to Innovative's quotation based on the merits of its management and technical features, separate and apart from whether those features were equal to the features proposed by Insero. See Comments at 2. Our Bid Protest Regulations do not contemplate the piecemeal presentation of protest issues that could and should have been made earlier. 4 C.F.R. § 21.2(a)(2); JAVIS Automation & Eng'g, Inc., B-290434, B-290434.2, Aug. 5, 2002, 2002 CPD ¶ 140 at 7 n.11. In this regard, we note that, following the issuance of the task order, the agency provided Innovative with a post-award debriefing detailing the strengths assigned to its quotation. Additionally, the agency provided the protester with the evaluation record early in this proceeding, a month prior to the protester's submission of comments on the agency report. At any rate, as discussed further herein, we find that the agency's non-assignment of strengths to Innovative for these features was reasonable and consistent with the evaluation criteria.

quotation with strengths based on the unique features of its approaches to addressing the PWS requirements. While Innovative proposed its own approaches to meeting these requirements, Innovative's approaches were largely dissimilar in both substance and scope from Inersso's. Although the protester contends that its approaches offered the same benefits to the agency, we find that the agency has provided reasonable explanations, which are consistent with the contemporaneous record, for its assignment of strengths to Inersso's quotation but not to Innovative's quotation. Ultimately, we conclude that the protester's arguments largely amount to disagreement with the agency's evaluation judgments, and a protester's disagreement with an agency's judgment is not sufficient to establish that the agency acted unreasonably. See DV United, LLC, B-411620, B-411620.2, Sept. 16, 2015, 2015 CPD ¶ 300 at 10.

For example, the solicitation required vendors to include, as part of their management approach, a risk table that identified risks and explained how those risks would be mitigated. RFQ at 5. The TET credited Inersso's proposed risk management strategy with a strength for including a statement of its collaborative approach and a table that identified a list of high priority risks along with actions to mitigate and respond to such risks. See AR, Tab 310, Inersso Factor 1 TET Consensus Report, at 6. The protester argues that its proposed risk management strategy should have been assigned a similar strength because it "drew on [information technology infrastructure library] expertise, involved all aspects of its contractor team, would closely integrate with ICE stakeholders, and included a list of high-priority risks" and thus "hit the same notes as Inersso." Supplemental Protest at 7.

Despite the protester's assertion that its approach "hit the same notes as Inersso[s]," id., the two approaches were characterized by significant differences. Inersso's risk management table provided a detailed list of 10 high priority risks, identifying, for each risk, the type/category, the impact, the final exposure, and how Inersso would mitigate and respond to such risks. See AR, Tab 282, Inersso Quotation Volume I, at 25. In contrast to Inersso's detailed examination of risks, Innovative's risk table included only five risks, one of which merely referred the agency to a different section of Innovative's quotation.

Additionally, the evaluation record supports the agency's position that it was these differences in the two approaches that were responsible for the unequal assignment of strengths. In this regard, the TET recognized and extolled the risk management chart provided by Inersso as "giv[ing] a solid strategy to mitigate risk." AR, Tab 310, Inersso Factor 1 TET Consensus Report, at 6. With regard to Innovative's approach, however, the TET Chair explained that the TET found Innovative's approach to be insufficiently detailed to determine that it exceeded the PWS in a manner advantageous to the agency.⁶ TET Chair Supp. Statement at 3. We find this assessment to be both reasonable and consistent with the contemporaneous record.

⁶ In response to a request from our Office, the agency provided a statement from the TET Chair that explained the TET's basis for not assigning Innovative additional

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Other features of Innovative's proposed approach that were cited by the protester were, in fact, dissimilar to the approach proposed by Inersso. For instance, to meet the RFQ requirement to propose a comprehensive training approach, Inersso received a strength for proposing to [DELETED]. See AR, Tab 310, Inersso Factor 1 TET Consensus Report, at 8. Innovative did not propose any of these features, nor did its approach [DELETED]. See AR, Tab 279, Innovative Quotation Vol. I, at 33.

Similarly, Inersso received a strength for its approach to meeting the RFQ requirement to propose procedures to ensure the normalization of compensation across the contractor's team. Inersso's approach included not only a commitment to normalizing compensation levels, but also stated that Inersso would [DELETED]. See AR, Tab 310, Inersso Factor 1 TET Consensus Report, at 9. In contrast, Innovative did not provide these same assurances, and instead proposed only to [DELETED]. See AR, Tab 279, Innovative Quotation Vol. I, at 28.

In evaluating the above features, the agency reasonably found that Innovative's approach--in contrast to Inersso's approach--did not exceed the solicitation's requirements in a manner that was beneficial to the agency. See TET Chair Supp. Statement at 4-5; see also AR, Tab 310, Inersso Factor 1 TET Consensus Report, at 8-9. We find these assessments to be reasonable and well-supported by both the evaluation record and the substance of each vendor's proposed approach.

Inadequate Documentation

The protester also argues that DHS failed to adequately document its evaluation and instead used an earlier evaluation, created before the submission of final quotation revisions, as a starting point. In this regard, the protester notes that the TET's evaluation of Innovative's quotation stated that Innovative's quotation "fails to meet all minimum requirements," despite the fact that the agency assigned Innovative's quotation an acceptable overall rating. AR, Tab 318, TET Consensus Report, at 2.

In response to this argument, the agency explained that "the statement was likely inadvertently left in the TET Consensus Report from an earlier draft and that it did not reflect how the TET and SSA evaluated Innovative's quote." Contracting Officer's Statement at 14. Based on our review of the evaluation record, we find no merit to the protester's contention that this typographical error had a broader prejudicial impact on

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strengths based on its technical and management approaches. In determining the rationality of an agency's evaluation and award decision, we do not limit our review to contemporaneous evidence, but consider all the information provided, including post-protest explanations that fill in previously unrecorded details, so long as the explanations are credible and consistent with the contemporaneous record. See NCI Info. Sys., Inc., B-412680, B-412680.2, May 5, 2016, 2016 CPD ¶ 125 at 11.

the agency's evaluation of Innovative's quotation, or that it evidenced an inadequately documented evaluation.⁷

The protest is denied.

Thomas H. Armstrong
General Counsel

⁷ Additionally, the protester challenges DHS's repeated reliance on "copied and pasted" paragraphs throughout its non-price evaluation, which the agency used wherever Innovative's approach met requirements but did not have any strengths, weaknesses, significant weaknesses, or deficiencies. Comments at 14. The agency, however, was not required to document determinations of adequacy or otherwise explain why aspects of Innovative's quotation did not receive a strength, weakness, significant weakness, or deficiency. See Building Operations Support Servs., LLC, B-407711, B-407711.2, Jan. 28, 2013, 2013 CPD ¶ 56 at 5. Accordingly, we find the agency's repetitive statements, which simply note the lack of strengths or weaknesses within each evaluation section, to be unobjectionable.