



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Metro Productions Government Services, LLC

File: B-416203; B-416203.2

Date: July 6, 2018

Jeffery M. Chiow, Esq., Lucas T. Hanback, Esq., and Neil H. O'Donnell, Esq., Rogers Joseph O'Donnell, PC, for Metro Productions Government Services, LLC, the protester. H. Todd Whay, Esq., Whay Law Firm, for District Communications Group, LLC, the intervenor.

Jonathan A. Hardage, Esq., Department of the Army, for the agency. Young S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of awardees' technical proposal is denied where the evaluation was reasonable and consistent with the stated evaluation criteria.
 2. Agency's selection of a lower-rated, lower-priced proposal for award instead of a higher-rated, higher-priced proposal is unobjectionable, where the agency's award decision was reasonable, and adequately documented the rationale for the tradeoff.
-

DECISION

Metro Productions Government Services, LLC, a small business of Hampton, Virginia, protests the award of a contract to District Communications Group (DCG), a small business of Washington, DC, under request for proposals (RFP) No. W15QKN-18-R-0009, issued by the Department of the Army, for communications support services. Metro challenges the Army's evaluation of technical proposals, contends that the agency's evaluation was unequal, and argues that the award decision was unreasonable.

We deny the protest.

BACKGROUND

On October 10, 2017, the Army issued the RFP as a total small business set-aside, seeking communication support services for the Army's Office of the Chief of Public Affairs (OCPA). Agency Report (AR), Tab 4, RFP at 1, 27. According to the performance work statement (PWS), the OCPA "informs and educates the American people, keeps the Army informed and helps establish the conditions that lead to trust and confidence in America[']s Army and its readiness to conduct operations in peacetime, conflict and war." Id. at 39. The PWS stated that the primary objective of the effort was to accurately and effectively support Army communication through communication planning; communication execution and products; communication research; and communication evaluation and assessment. Id. The RFP anticipated the award of a fixed-price contract for a 1-year base period and two 1-year options.¹ Id. at 2, 94. Award would be made on a best-value tradeoff basis, considering the following three evaluation factors in descending order of importance: technical, past performance, and price. Id. at 101. When combined, the technical and past performance factors were significantly more important than price. Id.

Under the technical factor, proposals had to demonstrate that offerors had the technical knowledge, experience, capabilities, and personnel to meet the solicitation's requirements. Id. at 98. As relevant here, the solicitation required offerors to provide personnel to meet all the labor categories identified in the PWS including two key personnel positions identified as a program manager (PM) and alternate program manager (APM). Id. at 47, 98. The RFP required an offeror's PM or APM to have a minimum of 15 years of demonstrated professional experience, with at least five years of continuous experience at the strategic level, achieved within the past fifteen years. Id. at 47. Furthermore, personnel for all other positions had to have a minimum of five years of demonstrated "strategic/tactical/media communication level experience." Id. Proposals were to be evaluated to determine whether the offeror's approach adequately and completely considered, defined and satisfied the requirements specified in the RFP. Id. at 103.

For the technical factor, proposals could be assigned one of the following adjectival ratings: outstanding, good, acceptable, marginal, or unacceptable.² Id. at 102. The RFP also contemplated that proposals would be evaluated for technical risk, but placed offerors on notice that such risk would not be separately rated. Id. at 103. The level of risk associated with each proposal was to be considered in the adjectival rating assigned under the technical evaluation factor. Id. The risk assessment performed by the agency was to consider the potential for disruption of schedule, degradation of performance, the need for increased oversight, and the likelihood of unsuccessful contract performance. Id.

¹ The solicitation also included a time-and-material contract line item number (CLIN) for non-labor related costs, such as subscriptions, and maintenance. RFP at 22.

² Each adjectival rating corresponded with a color. RFP at 102. An outstanding corresponded with a blue; good with purple; acceptable with green; marginal with yellow; and unacceptable with red. Id.

Past performance was to be evaluated for relevance and quality. Id. at 104. Prior contracts were to be first assessed for relevancy.³ Id. Then past performance was to be assessed for how well each offeror performed under those prior contracts. Id. Proposals could be assigned one of the following confidence assessment ratings: substantial confidence; satisfactory confidence; neutral confidence; limited confidence; or no confidence. Id. at 104-105.

An offeror's total evaluated price was to be evaluated by summing the proposed prices for the following: (1) all priced CLINs for communication support services; (2) the evaluated prices for all other direct costs (ODCs); (3) contractor manpower reporting (when separately priced) for the base year and options; and (4) the option to extend services. Id. at 105.

The RFP stated that the government would weigh the relative benefits of each proposal and that award would be made based on an integrated assessment of the results of the agency's evaluation. Id. at 101. The solicitation also stated that the source selection authority (SSA) would give due consideration to all the factors and their relative order of importance, but reserved the right to make an award to other than the lowest priced offeror, or to other than the offeror with the highest technical rating--if the SSA determined that to do so would result in the best value to the government. Id.

The Army received six proposals in response to the RFP, including the ones submitted by Metro and DCG. Combined Contracting Officer Statement and Memorandum of Law (COS/MOL) at 14. Metro is the incumbent contractor. Protest at 1. Following an evaluation of proposals by an agency source selection evaluation board (SSEB), the SSA established a competitive range consisting of five offerors, opened discussions, and requested final proposal revisions (FPR) by March 1, 2018.⁴ AR, Tab 9, Source Selection Decision Document (SSDD), at 7.

After evaluating FPRs, the agency concluded that DCG and Metro, each, met the RFP's personnel requirements and that "the risk of unsuccessful performance" was "no worse than moderate" for both offerors. AR, Tab 8a, Metro FPR Evaluation, at 22; Tab 7a, DCG FPR Evaluation, at 20. Based on its evaluation, the SSEB assigned the following ratings to DCG's and Metro's FPRs:⁵

³ Proposals could be assigned one of the following relevancy ratings for past performance: very relevant; relevant; somewhat relevant; or not relevant. RFP at 104.

⁴ One offeror was excluded from the competitive range because the proposal was assigned an unacceptable rating under the technical evaluation factor. AR, Tab 9, SSDD, at 7.

⁵ This decision only identifies the final evaluation ratings assigned to DCG and Metro because the ratings assigned to the other proposals are not relevant to this decision.

	DCG	Metro
Technical	Good	Outstanding
Past Performance	Substantial Confidence	Substantial Confidence
Price	\$8,049,311	\$9,493,417

AR, Tab 9, SSDD, at 8.

The SSA, who was also the contracting officer (CO) for the procurement, then conducted a tradeoff analysis between DCG's lower-rated, lower-priced proposal and Metro's higher-rated, higher-priced proposal, and ultimately selected DCG's proposal for award of the contract. Id. at 24-27.

On March 23, the agency notified Metro of the award to DCG. AR, Tab 11, Post Award Notice Metro, at 1-2. On March 23, Metro requested a debriefing but then, before receiving a debriefing, voluntarily withdrew its request on March 29. AR, Tab 12a, Metro Debrief Request, at 3-4; Tab 12b, Metro Debrief Withdrawal, at 1-2; COS/MOL at 25. That same day, Metro filed the instant protest with our Office.

DISCUSSION

Metro raises several challenges to the Army's evaluation of proposals and award decision. First, the protester asserts that the agency failed to properly evaluate the risk associated with DCG's proposed staffing levels. Metro also contends that the experience of certain personnel proposed by DCG fails to comply with the RFP's minimum requirements. Next, the protester argues that the Army conducted an unequal evaluation with regard to the staffing strategies proposed by offerors. Finally, Metro alleges that the agency's best-value decision is flawed because of the Army's unreasonable underlying evaluation, and because the SSA's decision lacked any analysis to explain why Metro's superior technical proposal was not selected over DCG's lower-rated offer.⁶ Although we do not address every argument raised, we have reviewed all of the protester's assertions and find that none provides a basis to sustain the protest.⁷

⁶ The protester withdrew parts of its initial protest on May 10, 2018. Comments at 1. Accordingly, this decision does not address those allegations.

⁷ For instance, the protester alleges that its protest should be sustained because the agency failed to assign risk to DCG's proposal because DCG had not previously supported the RFP's requirements even though its offer indicated otherwise, and because DCG failed to "recognize the significant change in requirements" of the new solicitation. Comments at 6. While Metro, as the incumbent contractor, may believe that all other offerors should have been assigned a risk for not identifying the changes between the requirements of the prior contract and the instant solicitation, the agency, not Metro, has the primary responsibility for evaluating proposals. Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 5-6. We find nothing unreasonable with the
(continued...)

Risk Assessment

Metro asserts that the agency failed to properly evaluate the risks associated with DCG's allegedly inadequate staffing.⁸ The protester insists that the agency's risk evaluation is flawed because it failed to take into consideration the "vastly different proposed labor hours (between DCG and Metro) against greatly increased requirements." Comments at 5.

In response, the agency explains that the RFP did not establish any minimum staffing levels or labor hour requirement. Rather, the Army told offerors in questions it received in response to the RFP that "it is up to the contractor to determine the appropriate staffing levels, labor categories and personnel (labor mix) to effectively and efficiently perform the requirements in the solicitation." RFP at 9. Finally, the agency points to its evaluation of DCG's proposal to show that the Army considered the risks associated with DCG's proposed personnel, labor hours, and staffing

In reviewing protests of 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 and procurement statutes and regulations, and adequately documented. See Wackenhut Servs., Inc., B-400240, B-400240.2, Sept. 10, 2008, 2008 CPD ¶ 184 at 6; Cherry Road Techs.; Elec. Data Sys. Corp., B-296915 et al., Oct. 24, 2005, 2005 CPD ¶ 197 at 6. The evaluation of technical proposals is primarily the responsibility of the contracting agency, because the agency is responsible for defining its needs and identifying the best method of accommodating them. Wyle Labs., Inc., supra. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was improper. Beretta USA Corp., supra.

(...continued)

agency's decision not to identify this alleged risk in its evaluation of DCG's proposal, and Metro's disagreement with the agency's evaluation is not sufficient to render the evaluation unreasonable. Beretta USA Corp., B-406376.2, B-406376.3, July 12, 2013, 2013 CPD ¶ 186 at 10.

⁸ As the incumbent contractor, Metro argues that the instant RFP contained requirements that were greatly expanded from the prior contract. The protester notes that in order to fulfill the expanded requirements of the new solicitation, Metro was required to propose more personnel and labor hours in its offer, as compared to the prior contract. In this regard, the protester contends that DCG's proposed staff and labor hours are inadequate because the amount of personnel and hours proposed by DCG are similar to the amount of individuals and labor hours Metro previously used, and do not reflect the expanded requirements of the new solicitation.

Our review of the record confirms that the agency's risk evaluation of DCG's proposal complied with the RFP's requirements, and we deny this ground of protest. As discussed above, the solicitation required the agency to consider the level of risk associated with each proposal under the technical evaluation factor. RFP at 103. The risk assessment was to take into account the potential for disruption of schedule, degradation of performance, the need for increased oversight, and the likelihood of unsuccessful contract performance. Id. The SSEB's evaluation of DCG's proposal concluded that staff proposed met the solicitation's requirements and DCG's offer adequately laid out proposed personnel labor categories, associated descriptions, experience, and labor hours. Tab 7a, DCG FPR Evaluation, at 20. The SSEB also concluded that based on the personnel proposed by DCG, the risk of unsuccessful performance of the relevant RFP requirements was no worse than moderate. Id. Based in part on this assessment, the SSEB assigned a rating of good to DCG's proposal under the technical evaluation factor, finding that as a whole, the technical risk of unsuccessful contract performance was low, as no weaknesses were identified, and that there was little potential to cause disruption of schedule or degradation of performance. Id. at 11.

Although Metro may believe that the personnel and number of labor hours proposed by DCG are insufficient to meet the requirements of the solicitation--and therefore pose a risk to the agency--the RFP contained no such minimum requirements. See RFP at 9. Rather, the solicitation explicitly informed offerors that it was up to each offeror to determine the appropriate labor mix to "effectively and efficiently perform the requirements." Id. The evaluation of technical proposals is the Army's responsibility, not Metro's, and Metro's disagreement with the Army's evaluation is not sufficient to render the agency's evaluation unreasonable.⁹ Wyle Labs., Inc., supra; Beretta USA Corp., supra.

⁹ The protester argued that we should sustain its protest because the facts of the instant protest are similar to those in our prior decision in M7 Aerospace LLC, B-411986, B-411986.2, Dec. 1, 2015, 2016 CPD ¶ 100. We disagree. In M7 Aerospace LLC, the agency determined that proposals were technically equal, but failed to include an explanation in the contemporaneous evaluation record for that conclusion. Id. at 8. We sustained the protest in M7 after finding that there was a "complete absence of any critical analysis or qualitative assessment of the proposals under the remaining elements of the technical evaluation factor other than staffing," which left our Office to "guess at the reasonableness of the agency's broader conclusion that all six proposals submitted were technically equivalent." Id. at 8. Here, unlike the facts of M7, the Army assigned a technical rating of outstanding to Metro's proposal, and a technical rating of good to DCG's proposal. AR, Tab 9, SSDD, at 8. Additionally, and more importantly, our review of the record confirms that the agency's contemporaneous evaluation adequately documented the basis for the ratings, and adequately documented the basis for the award decision. See AR, Tab 8a, Metro FPR Evaluation, at 1-22; Tab 7a, DCG FPR Evaluation, at 1-20; Tab 9, SSDD, at 1-27.

Technical Evaluation

Next, Metro argues that the Army erred in finding that the personnel proposed by DCG met the RFP's minimum experience requirements. The protester contends that DCG's proposed PM does not have 15 years of professional experience; that the APM does not have five years of continuous experience at the strategic level; and that DCG's proposed SharePoint administrator does not demonstrate five years of "strategic/tactical/media communication experience."

Based on our review of the record, we find that the agency reasonably concluded that DCG's personnel met the RFP's experience requirements, and deny these allegations. As previously discussed, the RFP required an offeror's PM or APM to have a minimum of 15 years of demonstrated professional experience, with at least five years of continuous experience at the strategic level, achieved within the past fifteen years. RFP at 47. Personnel for all other positions had to have a minimum of five years of demonstrated "strategic/tactical/media communication level experience." Id.

Here, the resume of DCG's proposed PM identified various positions at various organizations held by that individual from 1998 through the present. AR, Tab 5a, DCG's FPR, at 39-41. The resume of DCG's APM also identified various positions at various organizations held by that individual from 2001 through the present. Id. at 42-43. Moreover, DCG's APM was employed as a communication and marketing subject matter expert with Barbaricum LLC from December 2016 to the present; as a public affairs officer with the West Virginia Air National Guard from July 2012 to the present;¹⁰ as a public affairs officer with the Pennsylvania Air National Guard from September 2001 to July 2012, and as a communications specialist with the Pittsburgh Melanoma Foundation from January 2015 to the present. Id. The resume for DCG's SharePoint administrator identified various experience from 2009 to the present, where the individual served in a variety of roles. Id. at 52-53. For example, the individual's resume stated that he served as a SharePoint administrator with the National Guard from October 2009 through April 2011; and then with various naval drug screening labs, the Veteran's Administration's (VA) Business Program Management Office and Office of Cybersecurity, along with the VA's Office of Connected Care and Patient Centered Care and Cultural Transformation, from 2013 through the present. Id. Based on this information, our review of the record provides no basis to find that the agency should have concluded that DCG's personnel failed to meet the RFP's experience requirements.¹¹

¹⁰ It appears that the individual was also performing duties as a national guardsman or reservist overlapping the period of his civilian employment.

¹¹ Metro argued that the resumes of DCG's PM and SharePoint administrator lacked the necessary details for the Army to conclude that those individuals met the RFP's requirements. Our review of the record, as discussed in this decision, confirms otherwise. See AR, Tab 5a, DCG's FPR, at 39-43, 52-53.

In any event, Metro's protest concedes that the resume of DCG's APM "provides facial detail for positions that cover a 15 year period." Comments at 8. Because the RFP required that an offeror's PM or APM have a minimum 15 years of demonstrated professional experience, there is no real dispute with regard to whether DCG's proposal complied with this requirement. Next, Metro's other challenge to the experience of DCG's APM is based on the protester's interpretation of the APM's resume. For example, the protester asserts that the APM's experience "does not appear to be at a strategic level," and that it did "not appear that. . . this experience was continuous." Comments at 8 (emphasis added). While Metro may disagree with the Army's assessment that DCG's personnel met the RFP's minimum requirements, the evaluation of technical proposals is the Army's responsibility, not Metro's. Wyle Labs., Inc., supra. Metro's disagreement with the Army's evaluation is not sufficient to render the agency's evaluation unreasonable. Beretta USA Corp., supra.

Unequal Evaluation

Metro also argues that the Army did not evaluate offerors on a common basis because the agency's evaluation of DCG's proposal allowed DCG to take exception to the RFP's ground rules. In this regard, the protester asserts that unlike Metro's proposal, which offered labor hours to fulfill all RFP requirements, DCG's proposal only offered to meet a subset of the work required by the solicitation. The protester contends that DCG's proposal did this by offering an inadequate number of labor hours and staff to fill certain requirements, while promising to meet additional contract requirements with personnel to be brought on after the contract was awarded.

Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the offerors' proposals. See Paragon Sys., Inc.; SecTek, Inc., B-409066.2, B-409066.3, June 4, 2014, 2014 CPD ¶ 169 at 8-9.

As relevant here, Metro's FPR identified 16 labor categories, including the two key personnel positions, and proposed a total of 29,300 combined labor hours to perform the solicitation's requirements. AR, Tab 6a, Metro's FPR, at 32-33. DCG's proposal identified 12 labor categories, including the two key personnel positions, and proposed a total of 22,610 combined labor hours to perform the solicitation's requirements. AR, Tab 5a, DCG's FPR, at 33. DCG's proposal also offered reach-back capabilities to backfill staff in the event of unforeseen departures, and to also provide surge support depending on the volume and complexity of the Army's needs. Id. at 9, 18, 21, 31.

We deny Metro's allegation that DCG's proposal was unequally evaluated based on a standard that was not common to all proposals. Here, contrary to Metro's arguments, the RFP did not require offerors to propose to a common standard. As previously discussed, the RFP did not establish minimum staffing levels or a minimum labor hour requirement. RFP at 9. Rather, offerors were on notice that the agency expected "the

contractor to determine the appropriate staffing levels, labor categories and personnel (labor mix) to effectively and efficiently perform the requirements in the solicitation.” Id.

Metro’s contention of an unequal evaluation is based on the inherent differences in the way that DCG proposed to meet the RFP’s requirements. The protester’s own allegation recognizes that, unlike Metro, DCG “bid on the portion of requirements that it knew and understood. . . and then hedged against the uncertainty by stating that it could bring on more resources later when necessary to cover the remaining requirements that it did not include in its bid.”¹² Comments at 11. As stated in its offer, DCG proposed to use “reach-back” capabilities to backfill staff to provide surge support depending on the volume and complexity of the Army’s needs.¹³ Here, any alleged differences in the Army’s evaluation of proposals were due to differences between the offers. See Paragon Sys., Inc.; SecTek, Inc., supra.

Trade-off Analysis and Source Selection Decision

Finally, Metro challenges the Army’s tradeoff analysis and award decision, primarily arguing that they were unreasonable because the tradeoff analysis was based on an unreasonable evaluation and because the award decision lacked any real analysis. Since we find that the agency’s evaluation of offers was reasonable, we deny this protest allegation. Glacier Tech. Solutions, LLC, B-412990.3, Mar. 15, 2017, 2017 CPD ¶ 91 at 9 (denying challenge to agency’s best-value tradeoff decision where protester’s argument was premised on allegations that had been discussed earlier and denied).

¹² Metro also argued that to the extent the RFP permitted DCG’s unique staffing approach, such an approach still created a technical risk for the agency because the RFP also required offerors to submit letters of commitment and resumes so that proposed personnel could be evaluated. Despite Metro’s contention, DCG’s proposal stated that any personnel replaced or added to the contract would “be subject to the Contracting Officer’s approval.” AR, Tab 5a, DCG’s FPR, at 31. Since any future DCG staff would still be subject to evaluation by the agency, we find nothing unreasonable about the agency’s decision not to identify a technical risk for this approach. See Wackenhut Servs., Inc., supra; Cherry Road Techs.; Elec. Data Sys. Corp., supra.

¹³ Metro contends, in the alternative, that the agency should have identified the staffing approach used by DCG as a technical risk because it could jeopardize the Army’s mission. For example, the protester asserts that DCG may not be able to “find qualified staff,” or that “DCG may not even have them in the first instance.” Comments at 11. Although Metro may believe that DCG’s approach creates risk for the agency, we note that DCG’s proposal indicated that between DCG and its subcontractor, DCG was offering the capability to pull staff from a variety of “more than 100 seasoned, highly-educated [personnel].” AR, Tab 5a, DCG’s FPR, at 31. We find nothing unreasonable about the agency’s decision not to identify DCG’s staffing approach as a risk. See Wackenhut Servs., Inc., supra; Cherry Road Techs.; Elec. Data Sys. Corp., supra.

Next, Metro also asserts that the Army's award decision improperly failed to explain why Metro's superior technical proposal was not selected over DCG's lower-rated offer. Again, we disagree.

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. Bella Vista Landscaping, Inc., B-291310, Dec. 16, 2002, 2002 CPD ¶ 217 at 4. The extent of such tradeoffs is governed only by the test of rationality and consistency with the evaluation criteria. Best Temporaries, Inc., B-255677.3, May 13, 1994, 94-1 CPD ¶ 308 at 3. A protester's disagreement, without more, does not establish that the evaluation or source selection was unreasonable. Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4.

Our review of the record confirms that the SSA identified discriminators between the proposals and justified the agency's decision to award the contract to DCG. The SSA recognized and gave credit to Metro for the superior strength in the protester's higher-rated technical proposal. AR, Tab 9, SSDD, at 10-11. For example, the SSA gave credit to specific aspects of Metro's proposal, finding the "proposal exceed[ed] the [RFP's] specified performance requirements for producing two (2) social media products per strategic message and offers a thorough approach demonstrating [its] ability [to] produce up to six (6) social media products, per strategic message, allowing for more content generation amongst audiences." Id. at 10. Additionally, the SSA concluded that Metro's proposal warranted the assignment of four significant strengths and nine strengths, which provided:

merit that is appreciably advantageous to the Government as the offeror's detailed approaches and processes provide fresh and innovative perspectives for the creation and producing of multimedia content, produc[ing] additional opportunities to communicate the Army story, provid[ing] an approach to task organizing for seamless coordination, provid[ing] additional social media products allowing for more content generation and provid[ing] insight to industry leading analytical software for monitoring of social media.

Id. at 26. While the SSA noted that "Metro's approaches have appreciable merit," he determined that the "level of technical superiority of Metro's proposal [did] not justify a price premium of approximately 18% higher" price when compared to DCG's proposal, which was assigned a good rating under the technical factor. Id. In making his final decision, the SSA took into account the substantial confidence ratings both proposals received for past performance, and decided that price was the significant discriminating factor in Metro not receiving award of the contract. Id. at 26-27. Accordingly, we deny this protest allegation because our review of the record confirms that the Army reasonably selected a lower-rated, lower-priced offer after concluding that the price

premium involved in selecting Metro's higher-rated proposal was not justified in light of DCG's good technical competence that was available at a lower price. Bella Vista Landscaping, Inc., supra.

The protest is denied.

Thomas H. Armstrong
General Counsel