U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Horizon Industries, Ltd.

File: B-416222; B-416222.2

Date: July 11, 2018

Tenley A. Carp, Esq., Samuel M. Shapiro., Esq., and Rebecca Lunceford Kolb, Esq., Arnall Golden Gregory LLP, for the protester.
Lee Dougherty, Esq., and Katherine S. Saphier, Esq., Effectus, PLLC, for Indigo IT LLC, an intervenor.
Melanie T. Dasher, Esq., and Kimberly L. Cohen, Esq., Department of Homeland Security, for the agency.
Louis A. Chiarella, 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 awardee's proposal is denied where the evaluation conclusions were reasonable and consistent with the solicitation, adequately documented, and did not employ unstated evaluation criteria.

2. Protest challenging the agency's best-value tradeoff decision is denied where the selection of the higher technically-rated, higher-priced proposal was reasonable and consistent with the stated evaluation criteria.

DECISION

Horizon Industries, Ltd., a small business of Vienna, Virginia, protests the issuance of a task order to Indigo IT, LLC, of Reston, Virginia, under request for proposals (RFP) No. HSBP1017R0038, issued by the Department of Homeland Security, U.S. Customs and Border Protection (CBP), for patch and release management services (PRMS) for CBP's Office of Information and Technology (OIT). This competition was conducted among firms holding one of the General Services Administration's (GSA) 8(a) STARS II contracts.[1] Horizon challenges the agency's technical evaluation and source selection decision.

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[1] The STARS II (Streamlined Technology Acquisition Resources for Services II) contracts are multiple-award, indefinite-delivery/indefinite-quantity (IDIQ) contracts
(continued...)

We deny the protest.

BACKGROUND

The CBP is the principal law enforcement agency charged with execution of the country's import trade policies. The agency is required to detect, investigate, and interdict smuggling of prohibited articles and other contraband at the nation's borders. Agency Report (AR), Tab 8, RFP, Statement of Work (SOW) at 2. The OIT is the information technology component of CBP and is responsible for, among other things, the engineering and testing of computer software in controlled environments so as to mitigate risk before it is introduced into the agency's production environment (i.e., patch and release management). Id.

The RFP,[2] issued on August 18, 2017, contemplated the award of a labor-hour/fixed-price task order for a 6-month base period, one 6-month option, and four 12-month options.[3] RFP at 3, 12; Contracting Officer's Statement (COS) at 1-2. In general terms, the contractor was to provide comprehensive PRMS services including:[4] planning, building, testing, deployment and stabilization of desktop changes; software distribution; and service management with program and administrative management-related tasks. SOW at 3; COS at 1. The solicitation established award would be made on a "best value" tradeoff basis, based on three evaluation factors in descending order of importance: technical; past experience/past performance; and price. RFP at 35-38. The technical factor consisted of three "areas of interest," also in descending order of importance: technical approach and understanding of program objectives and requirements; management and staffing approach; and transition-in plan.[5] Id. at 35-36. The nonprice evaluation factors, when combined, were significantly more important than price. Id. at 37.

(...continued)
awarded by GSA for various information technology services and service-based solutions.

[2] The RFP was subsequently amended four times. Unless stated otherwise, all citations are to the final version of the solicitation.

[3] The base period was labor-hour in type, while all remaining performance periods were fixed-price in type. RFP at 12.

[4] We recognize that the term "PRMS services" is redundant because the acronym PRMS encompasses the word "services." To be consistent with the RFP and usage by the parties, we have elected to follow the practice in our decision.

[5] Although the areas of interest were not of equal importance, the RFP stated that a single rating would be assigned to each offeror's technical proposal based on consideration of each interest area. Id. at 35.

A total of 22 offerors, including Horizon and the incumbent Indigo, submitted phase one proposals by the September 6 closing date.[6] The agency evaluated initial submissions and thereafter informed offerors of their competitive viability. The phase-two solicitation was issued on October 26 and seven offerors, again including Horizon and Indigo, submitted proposals by the November 13 closing date.

An agency technical evaluation team (TET) evaluated offerors' nonprice proposals using the following adjectival rating schemes: superior, good, satisfactory, marginal, or unacceptable for the technical factor; and superior confidence, satisfactory confidence, limited confidence, unsatisfactory confidence, or neutral confidence for the past experience/past performance factor. A separate price evaluation team (PET) assessed, but did not assign ratings to, offerors' price submissions. The final evaluation ratings and prices of the Indigo and Horizon proposals were as follows:

	Indigo	**Horizon**
Technical	Superior	Good
Past Experience/Past Performance	Satisfactory Confidence	Satisfactory Confidence
Price	\$21,316,807	\$17,049,841

AR, Tab 9, TET Report, at 2, 33; Tab 10, PET Report, at 40-41.

The agency evaluators made narrative findings in support of their assigned ratings. For example, the TET identified seven strengths and no weaknesses in Indigo's technical proposal, and four strengths and no weaknesses in Horizon's technical proposal. AR, Tab 9, TET Report, at 33-40. The TET also concluded that, based on the nonprice evaluation factors, Indigo's proposal provided the greatest technical benefit and lowest technical risk to the agency. Id. at 54.

On March 23, the agency source selection authority (SSA) received and reviewed the TET and PET evaluation reports. AR, Tab 11, Source Selection Decision, at 1-15. The SSA agreed with the technical evaluators that Indigo's proposal was superior under the technical factor, and also found that Indigo had an advantage over Horizon under the past experience/past performance factor. Id. at 5-12. The SSA thereafter concluded that Indigo's technical and past experience/past performance advantages outweighed Horizon's lower price, and that Indigo's proposal represented the best value to the government all factors considered. Id. at 13-15.

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[6] The agency employed a multi-phase, advisory selection process in conducting the competition. COS at 1. In phase one, offerors were informed of their competitive viability before the submission of more-detailed, phase two proposals. Id. at 1-2. Regardless of whether an offeror was deemed to be a "viable competitor," all offerors that had participated in phase one were permitted to submit phase two proposals. Id.

After providing Horizon with notice of award on March 23, and a debriefing that concluded on April 3, this protest followed.[7]

DISCUSSION

Horizon protests certain aspects of the agency's evaluation and award decision. The protester alleges that CBP's evaluation of Indigo's technical proposal was improper. Horizon also contends that, even assuming the evaluation of Indigo's technical proposal was reasonable, the agency's best-value tradeoff decision was flawed.[8] Horizon argues that it was prejudiced by these alleged errors and that its proposal should have instead been selected for award. We have reviewed all the protester's issues and arguments and find they do not provide any basis on which to sustain the protest.

Evaluation of Indigo's Technical Proposal

Horizon protests the agency's technical evaluation of Indigo. Horizon argues that three of the seven strengths found in Indigo's proposal were unreasonable or based upon unstated evaluation criteria. Supp. Protest at 10-14. We disagree.

The task order competition here was conducted pursuant to Federal Acquisition Regulation (FAR) subpart 16.5. The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the contracting agency's discretion, because the agency is responsible for defining its needs and the best method of accommodating them. Engility Corp., B-413120.3 et al., Feb. 14, 2017, 2017 CPD ¶ 70 at 15; URS Fed. Servs., Inc., B-413333, Oct. 11, 2016, 2016 CPD ¶ 286 at 6. Our Office will review evaluation challenges to task order procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. Engility Corp., supra, at 15-16. Moreover, as a general matter, when evaluating proposals in a task order competition, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. Id. at 16; M.A. Mortenson Co., B-413714, Dec. 9, 2016, 2016 CPD ¶ 361 at 5, 8. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. Engility Corp., supra.

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[7] As set forth above, 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 awarded under the authority of Title 41 of the U.S. Code. 41 U.S.C. § 4106(f)(1)(B).

[8] Horizon also asserted that Indigo may have an organizational conflict of interest (OCI) based on its performance of the incumbent contract. Supp. Protest at 14-16. The protester subsequently elected to withdraw this protest ground. Horizon Notice to GAO, June 22, 2018.

The TET evaluated Indigo's technical proposal and identified a total of seven strengths--three with regard to the technical approach, three with regard to the staffing and management approach, and one with regard to the transition-in plan. AR, Tab 9, TET Report, at 36-40. The TET also characterized several of Indigo's strengths to be exceptional ones, i.e., "a complete understanding of current processes and an extensive knowledge of the in-house tools currently utilized by CBP," that provided significant benefit to the agency. Id. at 36. Based on its findings, the TET assigned an overall superior rating to Indigo's technical proposal. Id. at 33.

Horizon first protests the strength assigned to Indigo's transition-in plan. The solicitation stated that the agency would evaluate each offeror's transition plan to determine, among other things, "the [p]lan's ability to meet the [staff] onboarding requirements as quickly as possible within the six (6) month base period." RFP at 36. Indigo's proposal stated that it would have 15 of 16 positions filled at contract award. AR, Tab 19, Indigo Proposal, at 15. The TET found that to be a significant benefit to the agency because it "increases the chance of successful performance with no anticipated delays or interruption in [required] services."[9] Id. at 40.

Horizon asserts that Indigo's transition-in plan strength was unwarranted. The protester does not dispute that Indigo's proposal stated that the awardee would have 15 of 16 positions filled at contract award, or that Horizon instead proposed being fully staffed within 5 months after award. Rather, Horizon contends that "Indigo's transition plan, like Horizon's, merely comports with the minimum requirements of the Solicitation." Supp. Protest at 11. Horizon interprets the RFP to mean that any transition-in plan demonstrating staffing within the 6-month base period only meets requirements. Id. at 11-12.

We find Horizon's interpretation of the solicitation here to be unreasonable. Where a dispute exists as to the meaning of a particular solicitation provision, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, an interpretation must be consistent with such a reading. Blue Origin, LLC, B-408823, Dec. 12, 2013, 2013 CPD ¶ 289 at 6. As set forth above, the RFP stated that offerors' transition plans would be evaluated on the ability to meet the onboarding requirements "as quickly as possible within the six (6) month base period." RFP at 36. In our view, the RFP provision leaves little doubt that CBP intended to evaluate the extent to which an offeror's transition plan both complied with and exceeded the 6-month minimum requirement. The protester's interpretation, by contrast, focuses solely on the 6-month minimum requirement and completely ignores the "as quickly as possible" portion of the evaluation criterion. Id. Moreover, Horizon's interpretation would thereby preclude the ability of an offeror--in a best-value procurement--from ever exceeding the minimum requirement regardless of how quickly

[9] Horizon's transition-in plan, by contrast, anticipated being fully staffed within 5 months after award and was found by the evaluators to have met RFP requirements. AR, Tab 9, TET Report, at 36.

an offeror was able to provide its staffing, even as here, within 1 day. See First Financial Assocs., Inc., B-415713, B-415713.2, Feb. 16, 2018, 2018 CPD ¶ 76 at 5-6. In sum, we find that the RFP--when read as a whole and in a manner giving effect to all its provisions--was not ambiguous, and that the agency's evaluation of Indigo's transition plan was reasonable.

Horizon also alleges that two of the strengths identified in Indigo's technical proposal were based on unstated evaluation criteria. The agency evaluators found Indigo's status as a Microsoft Gold Partner to be a technical approach strength because it would maximize the awardee's ability to leverage Microsoft Systems Center Configuration Manager, a critical component of CBP's desktop technology suite. AR, Tab 9, TET Report, at 38. The TET also found Indigo's proposed use of a "cyber subject matter expert" to be a management and staffing approach strength, as it would enhance "the CBP security posture . . . and increase[] the chance of successful performance while improving the overall security of the desktop environment." Id. at 39. Horizon argues, for example, that CBP's consideration of the use of a cyber subject matter expert was an unstated criterion because the term "cyber security" does not appear in the RFP nor does the SOW contain a requirement to employ a cyber-security expert. Supp. Protest at 14. The protester essentially argues that those instances where Indigo exceeded RFP requirements in a manner in which Horizon did not constituted unstated evaluation criteria. We disagree.

While a solicitation must inform offerors of the basis for proposal evaluation by identifying the evaluation factors and their relative importance, a solicitation need not specifically identify each and every element an agency considers during an evaluation where such elements are intrinsic to, or reasonably subsumed within, the stated evaluation factors. FAR § 16.505(b)(1)(iv)(C); Leader Comms., Inc., B-412819, B-412819.2, June 13, 2016, 2016 CPD ¶ 197 at 5: see also Enterprise Info. Servs. Inc., B-407105.3, June 10, 2013, 2013 CPD ¶ 145 at 5 n.3.

Here, contrary to Horizon's assertion that CBP applied an unstated evaluation criterion by assessing the use of a cyber subject matter expert, the solicitation expressly put offerors on notice that the agency would evaluate offerors' management and staffing approaches to determine the degree to which the staffing would provide quality performance of the required PRMS services. RFP at 36. Moreover, the SOW clearly notified offerors that the PRMS services included "cyber" activities.[10] SOW at 2, 6 ("The Contractor shall provide . . . as required . . . support [for] . . . unanticipated cyber events"). The solicitation thus unambiguously gave offerors ample notice that the evaluation of staffing approaches could include consideration of the use of a cyber

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[10] Horizon does not dispute that the SOW, on more than one occasion, referred to "cyber" activities and events: rather, the protester maintains that because the SOW did not explicitly use the term "cyber security," its consideration by the agency was an unstated evaluation criteria. Supp. Protest at 14.

subject matter expert.[11] Quite simply, Indigo's decision to offer innovative technical approaches--that Horizon did not also propose--does not, as the protester argues, thereby amount to reliance on unstated evaluation criteria. See Pricewaterhouse Coopers Public Sector, LLP, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 8. Horizon's protest regarding this matter is without merit.

In sum, we find no basis to question the agency's evaluation of Indigo's technical proposal. The protester's allegations to the contrary only reflect its disagreement with the agency's evaluations, which provides no basis to question the reasonableness of the agency's judgments.[12] See First Financial Assocs., Inc., supra, at 6; Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. We deny this aspect of Horizon's protest, accordingly.

Best-Value Tradeoff Decision

Horizon also protests the agency's best-value tradeoff determination. The protester maintains that even assuming the evaluation of Indigo's technical proposal was proper, the selection of Indigo's proposal for award was improper. We disagree.

Where, as here, a solicitation provides for issuance of a task order on a "best value" tradeoff basis, it is the function of the SSA to perform a price/technical tradeoff, that is, to determine whether one proposal's technical superiority is worth its higher price. Engility Corp., supra, at 24; Alliant Enter. JV, LLC, B-410352.5, B-410352.6, July 1, 2015, 2015 CPD ¶ 209 at 13. An agency has broad discretion in making a tradeoff

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[11] Likewise, Indigo's Microsoft Gold Partnership was clearly part of the offeror's technical approach to successfully performing the SOW tasks, see RFP at 35, and did not have to be expressly identified in the solicitation in order to be properly taken into account as part of the agency's technical evaluation.

[12] We also find no merit in Horizon's assertion that the agency could not consider any of Indigo's strengths to be "exceptional," because the term was not formally defined. As a preliminary matter, an allegation that the agency improperly used a rating scheme as part of its evaluation that was not disclosed in the solicitation is not a valid basis for a protest since there is no requirement that the solicitation describe the agency's rating scheme. See FAR § 16.505(b)(1)(iv)(C); Swift & Staley, Inc., B-408792, Dec. 6, 2013, 2013 CPD ¶ 284 at 3 n.4. Further, an agency's evaluation is not to be based upon a simple count of strengths and weaknesses, but rather, on a qualitative assessment of the proposals consistent with the stated evaluation scheme. A&T Sys., Inc., B-410767, Feb. 10, 2015, 2015 CPD ¶ 95 at 4; see SRA Int'l, Inc., B-407709.5, B-407709.6, Dec. 3, 2013, 2013 CPD ¶ 281 at 12-13. Whether these features were considered as "strengths" or "exceptional strengths" is immaterial, provided that the agency considered the qualitative merits of the proposal features. Here, the record reflects that the agency clearly considered these features on their merits and not on their characterization as strengths or exceptional strengths.

between price and nonprice factors, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the solicitation's stated evaluation criteria. Alliant Enter. JV, LLC, supra. The agency's rationale for any price/ technical tradeoffs made and the benefits associated with the additional costs must be adequately documented. FAR §§ 16.505(b)(1)(iv)(D), (b)(7)(i); see Engility Corp., supra. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision. FAR § 16.505(b)(7); Engility Corp., supra. Rather, the documentation need only be sufficient to establish that the agency was aware of the relative merits and costs of the competing proposals, and that the source selection was reasonably based. Engility Corp., supra.

The SSA, when making his price/technical tradeoff determination, first reviewed the evaluation findings as well as the relative importance of the RFP's evaluation criteria (i.e., that the nonprice factors, when combined, were significantly more important than price). AR, Tab 11, Source Selection Decision, at 14. Thereafter, the SSA performed a comparative assessment of the offerors' proposals and identified Indigo's technical advantages including: an excellent understanding of tools, process, and the "flow and work products" currently used by CBP; a unique staffing approach that illustrates a new and innovative delineation of services together with the use of a cyber subject matter expert to centralize the handling of cyber security issues related to PRMS requirements; and an exceptional approach to incoming transition efforts.[13] Id. at 6, 14. The SSA then made the following determination:

> The combination of IndigoIT's evaluated technical strengths and, in particular, [the aforementioned] strengths provide a high level of unique perceived benefits and technical advantage that will significantly benefit CBP and increase the chance of successful performance, which merits the cost premium over the lower rated, lower priced proposals. . . . IndigoIT's innovative staffing approach demonstrates that it has much more than the contingency plan proposed by Horizon. In fact, IndigoIT proposes a new cyber-security driven model that appears to warrant payment of additional cost. Horizon's knowledge of the SOW requirements, including the potential need to work with the Group Policy team and the challenge posed by "reboots," . . . appear[s] to be [a] small strength[] when compared side-by-side with IndigoIT's demonstrated in-depth, CBP-specific grasp of the SOW requirements. . . . The documented strengths

[13] The SSA also found, notwithstanding the equivalent evaluation ratings, Indigo's past experience/past performance to be superior to that of Horizon. Specifically, the SSA determined that only Indigo possessed significant PRMS experience that precisely tracked the size, scope, and complexity of the SOW requirements; the SSA also found Indigo's performance of the incumbent contract demonstrated a proven understanding of work requirements. Id. Based on this more-highly relevant and proven experience, the SSA concluded that Indigo's past experience/past performance represented another nonprice advantage compared with Horizon. Id.

IndigoIT offers CBP clearly provide significant technical merit to support the cost premium.

Id. at 14-15.

We find that the agency's source selection decision was reasonable and consistent with the solicitation's evaluation criteria, and well-documented, i.e., the decision sets forth in extensive detail the SSA's rationale for the tradeoff between price and nonprice considerations in making the award decision. As the record demonstrates here, the SSA detailed why he believed Indigo's technical and past experience/past performance advantages clearly outweighed the additional cost to the government, and adequately documented the rationale for this price/technical tradeoff.[14] As the SSA stated, "the added value and reduced risk of the higher rated technical proposal from IndigoIT is found, after careful, thorough analysis to be worth the differential in the evaluated price." Id. at 15.

The protest is denied.

Thomas H. Armstrong
General Counsel

[14] We also find no merit in the protester's assertion that the SSA failed to meaningfully consider cost to the government in his tradeoff decision. Horizon Comments at 8-9, citing DKW Comms., Inc., B-411182, B-411182.2, June 9, 2015, 2015 CPD ¶ 178 at 5-6. In DKW, there was no evidence in the record that the SSA considered relative costs--as opposed to cost risk--to the government in making the selection decision. Here, by contrast, the record reflects that the SSA was fully aware of and considered Horizon's $4.2 million price advantage when making his tradeoff decision. AR, Tab 11, Source Selection Decision, at 14. There is simply no requirement, as the protester suggests, that the SSA "dollarize" (i.e., calculate a precise value) an offeror's nonprice advantages as part of making a price/technical tradeoff decision. See InfoPro, Inc., B-408642.2, B-408642.3, Dec. 23, 2014, 2015 CPD ¶ 59 at 27.