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Decision

Matter of: Federal Working Group

File: B-416464; B-416464.2

Date: September 19, 2018

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DIGEST

1. Agency's establishment of a noncompetitive logical follow-on blanket purchase agreement (BPA), for services supporting the 2020 Decennial Census, was reasonable pursuant to the authority of Federal Acquisition Regulation § 8.405-6(a)(1)(i)(C).
2. Where agency reasonably established a noncompetitive BPA for services supporting the 2020 Decennial Census, protester is not an interested party to further challenge the establishment of that BPA.

DECISION

Federal Working Group, Inc. (FWG), of Arlington, Virginia, protests the Department of Commerce, United States Census Bureau's (USCB) establishment of a blanket purchase agreement (BPA) with ACCEL Corporation, of Silver Spring, Maryland, pursuant to solicitation No. YA1323-18-KC-0003, to provide field consulting and technical support for the USCB's Field Division (FLD) in connection with the 2020 Decennial Census.¹ FWG challenges the agency's limited-source justification and establishment of the BPA made as a logical follow-on to a previously-established BPA.

¹ The USCB's FLD "plans, organizes, coordinates, and carries out the Census Bureau's field data collection program for one-time demographic surveys and the Decennial Census." Agency Report (AR), Tab 10, Acquisition Plan, at 2.

We deny the protest in part and dismiss it in part.

BACKGROUND

In June 2014, pursuant to competitive procedures, the agency selected ACCEL for the establishment of a BPA under the General Services Administration's (GSA) MOBIS (mission oriented business integration services) professional services schedule. AR, Tab 8, 2014 BPA. The scope of work for the 2014 BPA provided that ACCEL would assist FLD in performing research, planning, development and administrative/management support services related to the "pre-2020 Decennial Census tests and objectives." AR, Tab 8, 2014 BPA at 4. Among other things, the 2014 BPA provided that ACCEL would "review[] and update[] manuals, training guides and job aids for office and field staff for use in pre-2020 Decennial Census tests," id. at 6; assist in the "elicitation and documentation of requirements for automated training, operations control systems and other automated systems that will need to be developed for the 2020 Census Test," id.; provide assistance with regard to "space requirements, telecommunication planning, IT [information technology] and security infrastructure, and space design strategies," id.; assist in the development of "operational plans for the recruiting effort," id. at 7; and assist in the "evaluation and summary of partnership lessons learned in 2010 and 2020 Census Tests." Id. Consistent with the scope of work, the agency thereafter placed several call orders, under which ACCEL provided assistance in developing and testing various procedures related to the upcoming 2020 Decennial Census. AR, Tab 9, Call Orders.

In December 2017, the agency recognized that it would need ongoing contractor support through completion of its 2020 Decennial Census activities, and conducted market research with regard to meeting those needs. Contracting Officer's Statement, July 11, 2018, at 5. In performing its research, the agency considered historical acquisition information, personal knowledge of agency personnel, government and/or commercial databases, and source lists for the same or similar items. Id. at 6; AR, Tab 1, Market Research Report, at 5. Based on that market research, the agency issued a report in March 2018 that recognized the ongoing requirements could be provided by several vendors under the GSA MOBIS schedule. However, the report also concluded:

[I]t is a major concern of the Government's that a disruption of this current work [in order] to re-compete these requirements and to bring a new Contractor up to speed with the current environment would create significant transition delays. The transition delays that come along with the transition of knowledge from the incumbent to a new Contractor and bringing a new Contractor up to speed with the inherent complex environment would likely lead to critical milestone dates in support of pre-2020 operations being missed, as well as many 2020 Census critical milestone dates. Due to the timing of the 2020 Decennial delivery, it would be a huge risk to change field

consultants and operational technical support in mid-2018 due to the learning curve required to bring a new contracting staff up to speed to support this effort.

AR, Tab 1, Market Research Report, at 7.

Consistent with the conclusions in the market research report, the agency thereafter executed a limited-source justification (LSJ) for the noncompetitive acquisition of consultant and technical support services as a logical follow-on to ACCEL's 2014 BPA. The LSJ was issued pursuant to the authority of the Federal Acquisition Regulation (FAR), which provides that a noncompetitive BPA is justified if:

In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with applicable Federal Supply Schedule ordering procedures. The original order or BPA must not have been previously issued under sole-source or limited-sources procedures.

FAR § 8.405-6(a)(1)(i)(C).

More specifically, the agency's LSJ echoed the concerns expressed in the market research report, noting that disruption of the current work through recompetition of the requirements would "create a duplication of costs, transition delays, and increased costs" and "would likely lead to critical milestone dates in support of pre-2020 operations being missed, as well as many 2020 Census critical milestone dates." AR, Tab 2, LSJ, at 2. The LSJ further noted that, under the 2014 BPA, ACCEL has been "performing exceptionally on multiple mission critical requirements." Id. Accordingly, the agency concluded that:

In the interest of economy and efficiency, it is in the Government[']s best interest to issue a logical follow-on for this work to ACCEL Corporation. . . .

Not acquiring the services from this vendor will jeopardize the quality and timeliness of the Census Bureau's ability to complete the services as described in the above sections of this limited sources justification.

Id. at 2, 4.

Thereafter, the agency issued a solicitation to ACCEL that outlined the scope of the anticipated BPA. In this regard, the solicitation reflected the agency's intent that ACCEL would continue to provide the same type of ongoing support in preparation for the 2020 Decennial Census that it was providing under the 2014 BPA. Overall, the services contemplated and functional areas covered by the two BPAs are the same. That is, both BPAs provide that the contractor will perform services "to assist in technical and operational writing, decentralized infrastructure, recruiting, space planning, personnel and payroll, geographic products, scheduling, and analytical and quantitative analysis."

AR, Tab 8, 2014 BPA, at 3; AR, Tab 3, Solicitation, at 7. Similarly, both BPAs provide for coverage under the following functional areas: quantitative and management analysis; technical writer and training development; infrastructure planning and support; decennial administrative personnel/payroll, recruiting, quality assurance and data collection support; budget and financial management support; and partnership and outreach support. AR, Tab 8, 2014 BPA, at 5-7; AR, Tab 3, Solicitation at 7-10.

On May 7, ACCEL submitted its proposal and, on May 24, the agency established the follow-on BPA with ACCEL.² This protest followed.

DISCUSSION

FWG challenges various aspects of the agency's award to ACCEL, asserting as a threshold matter that there was "no reasonable basis" for the noncompetitive award. Protest at 1. More specifically, FWG complains that the agency's requirements were for "garden-variety field consulting," and that the agency's market research "fails to meaningfully address the capabilities of FWG and others." *Id.* at 2-3. Accordingly, FWG maintains that the agency was required to compete its ongoing requirements.

We will review an agency's use of a limited source justification under FAR subpart 8.4 for reasonableness. See, e.g., XTec, Inc., B-405505, Nov. 8, 2011, 2011 CPD ¶ 249 at 3; STG, Inc., B-405082, B-405082.2, July 27, 2011, 2011 CPD ¶ 155 at 3; Systems Integration & Mgmt., Inc., B-402785.2, Aug. 10, 2010, 2010 CPD ¶ 207 at 2-3. As discussed below, we find nothing unreasonable in the agency's determination that award of a logical follow-on BPA to ACCEL for ongoing support of the agency's 2020 Decennial Census activities was justified.

As noted above, the 2014 BPA was established with ACCEL under competitive procedures, and that BPA specifically required performance of ongoing activities that are both similar to, and have the potential to impact, performance of the follow-on BPA. For example, under the 2014 BPA, ACCEL was tasked with providing assistance in "2020 logistic and operational decisions" and "mak[ing] recommendations for equipment, staffing levels, geographical delineation, etc." AR, Tab 9, Call Order No. 0004 at 4. Pursuant to the follow-on BPA, ACCEL will continue to be responsible for assisting in the agency's management and implementation of its recruitment and staffing plans, along with logistical and operational matters. AR, Tab 3, Solicitation at 7-9.

By way of another example, under the 2014 BPA, ACCEL was tasked with providing assistance with regard to "automated training, operations control systems and other automated systems that will need to be developed for the 2020 Census Test." AR,

² The BPA was for a 12-month base period and three 1-year option periods, with an estimated cost for the base period of approximately \$4.3 million and a total estimated cost of approximately \$15.4 million. AR, Tab 10, Acquisition Plan, at 4.

Tab 9, Call Order No. 0008, at 7. Pursuant to the follow-on BPA, ACCEL will continue to be responsible for the “review and update [of] manuals, training guides and job aides for office and field staff for use in pre-2020 Decennial Census tests,” and to assist in the “elicitation and documentation of requirements for automated training, operations control systems and other automated systems that will need to be developed for the 2020 Census Test.” AR, Tab 3, Solicitation, at 8.

Based on our review of the record, we have no basis to question the reasonableness of the agency’s determination that performance of the on-going requirements related to 2020 Decennial Census is likely to be enhanced--both in quality and efficiency--by ACCEL’s recent performance under the 2014 BPA. That is, taking into consideration the unique nature of the Decennial Census; the pending deadline for completing that activity; the similarity and interrelationship of the responsibilities under the two BPAs; and the fact that ACCEL’s 2014 BPA was competitively awarded--we find nothing unreasonable in either the agency’s LSJ or its subsequent award of a logical follow-on BPA to ACCEL. In short, the agency reasonably determined that the activities ACCEL performed under the 2014 BPA are both related to, and have the potential to positively impact, the performance of the agency’s ongoing requirements for support related to the 2020 Decennial Census. FWG’s various complaints to the contrary are without merit.³

In addition to challenging the noncompetitive nature of the acquisition and the adequacy of the agency’s market research, FWG’s protest includes several broad allegations, including assertions that the agency failed to: make a reasonable affirmative responsibility determination, Protest at 25-28; address alleged conflicts of interest, *id.* at 28-30; conclude that ACCEL’s proposed subcontractors lacked adequate experience, Supp. Protest, July 5, 2018, at 10-17; and engage in adequate advance planning. Protest at 23-25.

Since, as discussed above, we have concluded that the agency reasonably exercised the authority granted under section 8.405-6(a)(1)(i)(C) of the FAR to noncompetitively

³ FWG also challenges the award on the basis that the agency’s market research--required in connection with the logical follow-on award, *see* FAR part 10; § 8.405-6 (c)(2)(vi)--was inadequate in that it “fails to meaningfully address the capabilities of FWG.” Protest at 3. FWG’s allegation in this regard is contrary to the record. As noted above, in performing its research, the agency considered historical acquisition information, personal knowledge of agency personnel, government and/or commercial databases, and source lists for the same or similar items, and specifically acknowledged that the requirements at issue “could be provided by a number of vendors under the GSA MOBIS Schedule.” AR, Tab 1, Market Research Report, at 5-6. Nonetheless, as discussed above, the agency reasonably concluded that, in the interest of economy and efficiency, it was appropriate to exercise the authority provided by section 8.405-6(a)(1)(i)(C) of the FAR. The agency’s exercise of such authority does not negate, nor call into question, the adequacy of the agency’s market research and, based on our review of the record, the agency’s research was adequate.

award a logical follow-on BPA to ACCEL, FWG does not qualify as an interested party to further challenge the agency's consideration of ACCEL's proposal. Specifically, our Bid Protest Regulations provide that, in order to qualify as an interested party to protest a contract award, the protester must be an actual or prospective offeror whose direct economic interest would be affected. 4 C.F.R. § 21.0(a)(1). Based on our determination, discussed above, that the agency reasonably justified its determination to make a logical follow-on award to ACCEL, FWG is not in line for award and, accordingly, has an insufficient economic interest to further challenge the agency's actions. Accordingly, FWG's various additional allegations will not be considered and are dismissed.

The protest is denied in part and dismissed in part.

Thomas H. Armstrong
General Counsel