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Decision

Matter of: ManTech Advanced Systems International, Inc.

File: B-416734

Date: November 27, 2018

Stuart B. Nibley, Esq., Amy Conant Hoang, Esq., and Erica L. Bakies, Esq., K&L Gates LLP, for the protester.

Douglas J. Becker, Esq., Department of Homeland Security, for the agency.

Todd C. Culliton, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest is denied where the agency reasonably evaluated quotations as consistent with the solicitation criteria.
 2. Protest is sustained where the agency unequally evaluated quotations when both the protester and awardee did not propose retention techniques focused on cleared personnel but only the protester's quotation was evaluated as having a weakness on that basis.
 3. Protest is denied where the agency reasonably made its source selection decision in accordance with the source selection decision methodology as provided for in the solicitation.
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DECISION

ManTech Advanced Systems International, Inc., of Herndon, Virginia, protests the issuance of a blanket purchase agreement against the Federal Supply Schedule (FSS) to SRA International, Inc., of Chantilly, Virginia, under request for quotations (RFQ) No. 70CMSD18Q0000016, issued by the Department of Homeland Security, U.S. Immigration and Customs Enforcement, for operations support services. ManTech alleges that the agency unreasonably and unequally evaluated quotations and improperly made its source selection decision.

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

BACKGROUND

On June 4, 2018, the agency issued the RFQ to a subset of General Service Administration, Professional Services Schedule, Special Item Number 874-1, schedule contract holders. Agency Report (AR), Tab 4, Contracting Officer's Statement of Facts at 1. The RFQ contemplated the issuance of a fixed-price blanket purchase agreement to be performed over a 1-year base period, four 1-year option periods, and one 6-month extension period. AR Tab 1, RFQ at 2, 81. The selected contractor would be expected to provide operations support services to the Visa Security Program (VSP) and the Counterterrorism and Criminal Exploitation Unit (CTCEU) within the agency's Visa Lifecycle Vetting Initiative. Id. at 134. The RFQ provided for award on a best-value tradeoff basis considering corporate experience, key personnel, staffing approach, and price. Id. at 7-8.

Eight vendors, including ManTech and SRA, submitted quotations prior to the July 11 closing date. The agency assigned both vendors' quotations acceptable ratings under each of the non-price factors. AR, Tab 7, Source Selection Decision Document (SSDD) at 2. ManTech's quotation was priced at \$111,805,455, and SRA's quotation was priced at \$113,051,362. Id. After evaluating quotations, the agency determined that SRA's quotation offered the best value. Id. at 10. When comparing ManTech's and SRA's quotations, the agency determined that SRA's quotation was more advantageous because, despite the lower price, ManTech's staffing approach had two weaknesses while SRA's quotation did not have any weaknesses. Id. at 5. The instant protest followed.

DISCUSSION

ManTech asserts that the agency unreasonably evaluated its quotation as having two weaknesses under the staffing approach factor. Protest at 14-19. ManTech also asserts that the agency unequally evaluated its and the awardee's quotations under that factor. Comments at 13-14, 17-18. Finally, ManTech asserts that the agency's best-value tradeoff analysis was unreasonable because it did not follow the solicitation's stated evaluation scheme. Protest at 9-14.

Evaluation Issues

The performance work statement (PWS) requires the selected contractor to provide senior, mid-level, and junior intelligence analysts. AR, Tab 1, RFQ at 31. The three levels of analysts are distinguished by their years of experience conducting intelligence analysis. Id. For instance, a senior intelligence analyst must have at least three years of experience, a mid-level intelligence analyst must have at least two years of experience, and a junior analyst must have at least one year of experience. Id. The PWS also advises that intelligence analysts providing support to the VSP must have top secret/sensitive compartmented information (TS/SCI) clearances, and that intelligence analysts providing support to the CTCEU must have TS clearances and be SCI eligible. Id. at 33.

When evaluating quotations under the staffing approach factor, the RFQ provided that the agency would examine whether vendors demonstrated competitive methods of personnel retention. AR, Tab 1, RFQ at 10. As one criterion, the RFQ advised that the agency would evaluate vendors' techniques and abilities for retaining qualified and cleared personnel. Id. As a separate criterion, the RFQ advised that the agency would evaluate vendors' techniques and abilities for retaining junior personnel. Id. Thus, the solicitation required vendors to provide one set of retention techniques for cleared personnel, and another set of techniques for junior personnel.

When evaluating ManTech's quotation under this factor, the agency assigned an overall rating of acceptable but noted two weaknesses. The agency noted that ManTech did not provide any retention techniques focused on cleared personnel. AR, Tab 6, Technical Evaluation Team (TET) Report, at 17. The agency also noted that ManTech's retention plan for junior analysts contemplated a [DELETED] after obtaining an SCI clearance, and that [DELETED] in this manner would result in CTCEU having fewer experienced analysts. Id. at 18.

ManTech challenges both weaknesses as unreasonably assigned. The firm asserts that the agency unreasonably assigned the first weakness because, contrary to the agency's position, it discussed retention techniques applicable to cleared personnel in its quotation when summarizing its general retention incentives. Comments at 12-13. As to the second weakness, ManTech argues that it did not propose to [DELETED] upon obtaining an SCI clearance but rather simply remarked that a [DELETED] existed. Protest at 19.

On this record, we find no basis to sustain either challenge to the agency's evaluation. In reviewing protests challenging an agency's evaluation of quotations, our Office does not reevaluate quotations or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. TSC Enter., LLC, B-415731, Feb. 8, 2018, 2018 CPD ¶ 71 at 2.

After reviewing ManTech's quotation, we find that it does not address any specific retention techniques focused on cleared personnel. The quotation shows that it planned to use general, company-wide retention strategies (i.e., a competitive compensation plan with flexible benefits, corporate retention initiatives, employee satisfaction surveys, and a continuing education program) in order to retain cleared personnel. AR, Tab 8, ManTech Quotation, at 41. While these retention strategies were located in a section titled "Retention of Qualified and Cleared Personnel," they do not appear to be designed specifically for retaining cleared personnel but rather apply to both cleared and junior personnel, as well as all other ManTech employees. Id. Furthermore, ManTech's quotation does not articulate that the retention techniques were designed solely to retain cleared personnel or had some other benefit particular to cleared personnel; therefore, even if the proposed retention techniques were in fact specific for cleared personnel, ManTech's quotation did not include adequate details indicating that the retention techniques referred solely to cleared personnel. As a result,

the agency was not required to infer that these techniques satisfied the evaluation criterion. CTIS, Inc., B-414852, Oct. 3, 2017, 2017 CPD ¶ 309 at 5 (“Agencies are not required to infer information from an inadequately detailed quotation, or to supply information that the protester elected not to provide.”). To the extent ManTech asserts that its quotation discussed retention strategies focused on cleared personnel when it discussed its retention strategies for junior personnel because junior personnel must have a clearance in order to work on the contract, we note that the solicitation plainly required vendors to describe separate retention techniques for both types of personnel. Accordingly, we find that the agency reasonably assigned the first weakness because ManTech did not describe specific retention techniques for cleared personnel as required by the solicitation.

Likewise, we find that the agency reasonably assigned the second weakness when it interpreted ManTech’s retention techniques as potentially leading to a dearth of qualified analysts within the CTCEU. When discussing its retention techniques for junior personnel, ManTech’s quotation provided:

ManTech fully understands the challenges associated with retaining junior personnel. We direct our Team Leads to guide and mentor junior personnel for career development. . . . Team ManTech also provides competitive compensation and benefit packages with structured annual review and promotion cycles. The requirement for personnel assigned to VSP Call Orders to have TS clearances with SCI eligibility creates a [DELETED].

AR, Tab 8, ManTech Quotation, at 41.

Based on this passage, we do not find the agency’s interpretation unreasonable. The passage explains how ManTech uses career development and promotion cycles as tools to retain junior personnel, and that the relationship between the CTCEU and the VSP allows for [DELETED] opportunities on the instant contract. In this regard, we think that ManTech’s quotation can reasonably be interpreted as explaining that ManTech uses career development as a retention technique and that it would use that tool on this particular contract by creating a [DELETED]. To the extent that ManTech asserts that it did not intend for its quotation to be interpreted in this manner, we note that the quotation did not include any caveats qualifying its reference to the “natural progression path” as a mere observation. See Technatomy Corp., B-411583, Sept. 4, 2015, 2015 CPD ¶ 282 at 6 (“It is a vendor’s responsibility to submit a well-written quotation, with adequately detailed information, which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency.”). Accordingly, we do not find this weakness objectionable because the agency reasonably interpreted the protester’s quotation as explaining that it would use the [DELETED] in order to retain its junior personnel.

ManTech also asserts that the agency unequally evaluated vendors’ quotations because SRA’s quotation suffered the same defects but was not assigned identical

weaknesses. In conducting procurements, agencies may not generally engage in conduct that amounts to unfair or disparate treatment of competing vendors. Red River Computer Co., Inc., B-414183.4 et al., June 2, 2017, 2017 CPD ¶ 157 at 6.

ManTech argues that the agency unequally evaluated its and SRA's quotations because SRA's quotation did not include retention techniques focused on cleared personnel yet was not assigned a weakness, in contrast to the weakness assigned to ManTech's quotation. Comments at 13. In response, the agency asserts that SRA's quotation included multiple retention incentives specifically geared towards cleared personnel and two retention incentives of general applicability that apply to cleared personnel. Supp. Memorandum of Law (MOL) at 7.

On this record, we find that the agency unreasonably evaluated the quotations. In this context, both quotations lack retention techniques focused on cleared personnel. As noted above, ManTech's quotation proposes to use a competitive compensation plan with flexible benefits, corporate retention initiatives, employee satisfaction surveys, and a continuing education program, as its retention techniques for cleared personnel. AR, Tab 8, ManTech Quotation, at 41. In nearly identical fashion, SRA's quotation proposes to use a competitive salary structure, spot bonuses, continuing education opportunities, training and development programs, and a team-friendly environment as its tools to retain cleared personnel. AR, Tab 9, SRA Quotation, at 9. Thus, both vendors proposed to use what appear to be company-wide benefits as their retention techniques for cleared personnel.

While SRA's quotation does include two specific retention programs designed for this particular contract (*i.e.*, the [DELETED] program and the [DELETED] framework) that may prove successful in retaining cleared personnel, as set forth below, these programs do not provide a basis to distinguish the quotations under the evaluation criteria. Neither program is specifically focused on retaining cleared personnel because they are applicable to all SRA analysts and, furthermore, SRA presented these retention techniques as focused on junior analysts. Supp. MOL at 7; AR, Tab 9, SRA Quotation at 10. Thus, given that neither vendor proposed a retention technique specifically focused on cleared personnel, we fail to see how the information in ManTech's quotation supports a weakness while the information contained in SRA's quotation does not. Cf., Myers Investigative & Security Servs., Inc., B-288468, Nov. 8, 2001, 2001 CPD ¶ 189 at 8 (agency unequally evaluated proposals when similar past performance information led to unfavorable conclusions about the protester and favorable conclusions about the awardee); TFA, Inc., B-243875, Sept. 11, 1991, 91-2 CPD ¶ 239 at 4 (agency unequally evaluated proposals where the protester's and awardee's proposals contained inadequate descriptions of their proposed equipment but the record did not show that awardee was similarly downgraded). Accordingly, we sustain this protest allegation because the record does not demonstrate that the agency had a basis to evaluate the quotations disparately in this regard.

ManTech also argues that the agency unequally evaluated the quotations when it failed to assign SRA a weakness for similarly proposing to [DELETED]. Supp. Comments

at 17. We find that the record does not support the protester's position. In our view, SRA's quotation does not propose to [DELETED] in the same manner as ManTech's quotation, and therefore the agency had a basis to evaluate the quotations differently. Whereas ManTech's quotation proposed to [DELETED] upon receiving SCI clearance, SRA proposed to [DELETED] for both programs. Compare AR, Tab 8, ManTech Quotation, at 41 ([DELETED]) with AR, Tab 9, SRA Quotation, at 6-7 ([DELETED]). Thus, SRA's quotation does not present the same concern that the CTCEU would have a dearth of qualified analysts because, even though the analysts would be [DELETED], SRA did not propose to [DELETED]. Accordingly, we deny this protest allegation because the protester has not demonstrated that the difference in ratings did not stem from a difference in the quotations. See Vertical Jobs, Inc., B-415891.2, B-415891.4, Apr. 19, 2018, 2018 CPD ¶ 147 at 7 ("Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings does not stem from differences in the proposals.").

Source Selection Decision

Under the evaluation methodology, the RFQ provided that the agency would make award to the quotation representing the best value. AR, Tab 1, RFQ at 7. The RFQ advised that the agency would evaluate the corporate experience and key personnel factors on a pass or fail basis, and then conduct a tradeoff between the price and staffing approach factors. Id. at 8. When conducting the tradeoff, the RFQ outlined the following approach:

In the event that two or more Quotes are determined not to have any substantial differences with respect to the non-price factors, price becomes more important. In the event that Quotes do have substantial differences, award may be made to other than the Quoter with the lowest priced Quote, if the Government determines that a price premium is warranted due to a higher adjectival rating. The Government may also award to other than the highest price and/or the highest rated quotation, if it determines that a price premium is not warranted.

Id. at 7. The RFQ further described the "order of importance" as staffing approach is more important than price but price becomes more important when there are not substantial differences between vendors' staffing approaches. Id. at 8.

In conducting its tradeoff between ManTech and SRA, the agency did not identify any substantial differences between the vendors' staffing approaches. Contracting Officer's Statement of Facts at 5. In ManTech's view, this means that it should have received award because it was lower-priced. Protest at 11. In effect, ManTech asserts that price was determinative of award when quotations received equal ratings under the staffing approach factor. Id. at 12 ("[B]ecause the Agency did not give SRA's proposal [a] 'higher adjectival rating,' it did not have the discretion to award to the higher-priced quote."). In response, the agency argues that the award did not deviate from the express terms of the solicitation because the solicitation did not make price

determinative when two quotations lacked substantial differences under the staffing approach factor. MOL at 6-7. Thus, the parties have varying interpretations concerning how the agency was required to conduct its tradeoff analysis.

Where a protester and an agency disagree over the meaning of solicitation language, we will first assess whether each posited interpretation is reasonable. Anders Constr., Inc., B-414261, Apr. 11, 2017, 2017 CPD ¶ 121 at 3. An interpretation is reasonable when it is consistent with the solicitation when read as a whole and gives effect to each of its provisions. Id. Furthermore, we defer to the plain meaning of the provision. Id.

The protester's interpretation is unreasonable because the RFQ never identifies price as the determinative factor under any scenario, including where quotations are evaluated as not having substantial differences. Instead, the RFQ repeatedly describes price as becoming more important than the staffing approach factor in those circumstances, and explains that the agency may award to a higher-priced quotation where the quotations have substantial differences (i.e., the staffing approach factor remains more important where the quotations have substantial differences); in this way, both scenarios refer to the agency as having discretion to select between the quotations based on price and staffing approach considerations whether or not there are substantial differences. Furthermore, we find that reading the phrase "becomes more important" as meaning "becomes determinative" is unreasonable because those phrases are not equivalent and convey different values for the relative weights of the factors. Accordingly, we deny this protest allegation because the solicitation never described price as the determinative factor under any circumstances.¹

COMPETITIVE PREJUDICE

Based on the foregoing, we find that the protester's allegation that the agency unequally evaluated the protester's and awardee's quotations with respect to retention techniques focused on cleared personnel provides us with a basis to sustain the protest. In order to sustain a protest, our Office must find that, but for the agency's action, the protester would have had a substantial chance of receiving the award (i.e., the protester must demonstrate that it suffered competitive prejudice). See Glacier Technical Solutions, LLC, B-412990.2, Oct. 17, 2016, 2016 CPD ¶ 311 at 12. Under this requirement, a

¹ As a final matter, we note that the protester challenged the agency's source selection decision as flawed based on its unequal evaluation of the quotations. Comments at 8. While this constitutes a derivative challenge and is not a basis to sustain the protest, see Technology and Telecomms. Consultants, Inc., B-415029, Oct. 16, 2017, 2017 CPD ¶ 320 at 6, we note that the agency should, as a practical matter, conduct a new source selection decision based on our finding that the agency unequally evaluated the quotations. Thus, GAO finds that the methodology with which the agency conducted its source selection is unobjectionable based on the terms of the solicitation; however, the source selection decision is nevertheless flawed because it is based on an unequal evaluation of the quotations under the staffing approach factor.

protester need not demonstrate that it was likely or even probable that it would have received award; rather, the protester need only demonstrate a reasonable possibility of prejudice. Id.

Here, we find prejudice in the agency's unequal evaluation. The record shows that, when making its tradeoff decision, the agency distinguished between the protester's and awardee's quotations based on the two weaknesses identified in protester's quotation. AR, Tab 7, SSDD, at 5. In this regard, we note that the protester's lack of retention techniques for cleared personnel was a significant factor in finding that the protester's quotation did not offer the best value, and that the agency characterized the weakness as troubling. Id. at 4-5. In view of the fact that the agency should have also identified a troubling weakness in SRA's quotation and that ManTech was lower-priced, we cannot conclude that the agency would have reached the same decision. Accordingly, we find that the protester has demonstrated competitive prejudice.

RECOMMENDATION

We recommend that the agency reevaluate the quotations under the staffing approach factor in a manner consistent with our decision. The agency should then make a new source selection decision. We also recommend that the agency reimburse the protester its costs associated with filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained in part and denied in part.

Thomas H. Armstrong
General Counsel