U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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

Comptroller General
of the United States

Decision

Matter of: Information International Associates, Inc.

File: B-416826.2; B-416826.3; B-416826.4

Date: May 28, 2019

John J. O'Brien, Esq., David S. Cohen, Esq., and Daniel J. Strouse, Esq., Cordatis LLP, for the protester.
Evan A. Rossi, Esq., Rossi & Rossi Attorneys at Law, PLLC, for Quanterion Solutions Inc., the intervenor.
Lieutenant Colonel Damund Williams and Matthew Ruane, Esq., Department of the Air Force, for the agency.
Kenneth Kilgour, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency unreasonably evaluated awardee's proposal as containing a strength where the added benefit identified by the agency was either not consistent with the terms of the solicitation or not adequately supported by the record, and the agency unreasonably evaluated the protester's proposal as containing a weakness where the awardee's proposal was not materially different from the protester's and only the protester's proposal was assessed a weakness.

2. Challenge to the agency's consideration of past performance in the source selection is denied where minor differences in the offerors' past performance was insufficient to call into question the reasonableness of the source selection authority's conclusion that the two offerors were essentially equal with respect to past performance.

3. Protester's challenge to the agency's evaluation of awardee's cost proposal is denied where the protester failed to demonstrate prejudice from alleged errors in the evaluation.

DECISION

Information International Associates, Inc. (IIa), of Alexandria, Virginia, protests the award of the Homeland Defense and Security Information Analysis Center (HDIAC) Basic Center Operations (BCO) contract to Quanterion Solutions Inc., of Utica, New York, under request for proposals (RFP) No. FA8075-18-R-0001, issued by the

Department of the Air Force for the collection, analysis, synthesizing/processing, and dissemination of scientific and technical information. Agency Report (AR), Tab 3, Conformed RFP at 15. The protester challenges the agency's technical, past performance, and cost evaluations and the reasonableness of the agency's source selection.[1]

We sustain the protest.

BACKGROUND

The solicitation sought proposals for the award of a single cost-plus-fixed-fee contract to the offeror whose proposal offered the best value to the government, considering past performance, technical, and cost. RFP at 124-25. The technical factor had three subfactors of equal importance: operations approach, management, and information support system (ISS). Id. at 129-30. The past performance and technical factors were of equal importance and, when combined, were significantly more important than cost. Id. at 125.

With respect to past performance, offerors were required to submit three or more references for the prime contractor and one for the subcontractor or teaming member that was to perform the largest portion of the BCO requirement, up to a maximum of five references. Id. at 105. The RFP advised offerors that the agency would evaluate past performance through an analysis of the quality of performance on the offeror's recent and relevant contract references. Id. at 125. The agency would assign each offeror a single confidence assessment rating--ranging from substantial confidence to no confidence--reflecting the probability that the offeror would successfully perform the requirements of this solicitation. Id. at 125, 128.

Under the operations approach subfactor, the solicitation required the contractor to develop and maintain an internet home page website for HDIAC within 60 days from the date of contract award. The website was to contain, at a minimum, information about HDIAC, as well as content of interest to the HDIAC user community, to include: journals and publications, calendar of events, databases, other HDIAC products such as State of the Art Reports (SOARs), web-based technical reports, handbooks, databases, and Critical Reviews and Technology Assessments. Id. at 22.

Under the ISS subfactor, the offeror was required to explain in detail its approach for obtaining customer feedback and/or suggestions regarding HDIAC inquiries, products, and core analysis tasks. Id. at 109.

[1] This is the second award to Quanterion. IIa protested the previous award; we dismissed that protest after the agency notified our Office of its intent to take corrective action. See Information Int'l Assocs., Inc., B-416826, Oct. 24, 2018 (unpublished decision). Citations are to final evaluations following the agency's corrective action.

The RFP advised that the agency would evaluate an offeror's proposed costs for reasonableness, realism, and balance. Id. at 130. With respect to cost realism, the RFP advised offerors that the agency would perform a cost realism analysis for contract line item numbers (CLINs) 0001, 0002, and 0005. Id. The agency would independently review and evaluate specific elements of the proposed cost estimate to determine whether the proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the various aspects or methods of performance and team composition and capabilities described in the offeror's proposal. Id. at-130-31. As a result of its analysis, the agency reserved the right to adjust an offeror's proposed costs to arrive at a most probable cost. Id. at 131.

The agency received three proposals, including one from IIa--the incumbent--and one from Quanterion. The table below summarizes the evaluation of these two proposals:

Offeror	Past Performance	Technical			Proposed Cost	Probable Cost
		Operations Approach	Management	ISS		
IIa	Substantial Confidence	Good	Acceptable	Acceptable	$42,914,604	$42,914,604
Quanterion	Substantial Confidence	Good	Acceptable	Acceptable	$41,069,551	$41,059,904

AR, Tab 16b, Source Selection Decision Document (SSDD)--Addendum, at 6. Both offerors were assigned one strength under the operations approach subfactor; the protester was also assigned a weakness under the ISS subfactor.

As relevant to this protest, the awardee's proposal was evaluated as having the following strength under the operations approach subfactor:

> Quanterion proposes to have a redesigned, cloud compatible HDIAC website running on the first day of the contract. This has merit for the government as [Defense Technical Information Center (DTIC)] executes its strategy of moving all public-facing websites to a government cloud environment. Given Quanterion's expertise in transitioning and hosting websites in the Azure cloud, this resident expertise can be leveraged by the government to gain efficiencies in moving other BCO websites to a Cloud environment. This will reduce or eliminate the need for the 60 day timeline as outlined in the [performance work statement] to create, test, and publish the HDIAC website, resulting in time and cost savings to the government.

AR, Tab 10, Quanterion Technical Evaluation, at 6 (emphasis added).

The agency evaluated the protester's proposal as having a weakness under the ISS subfactor, because the proposal "does not address how feedback will be obtained, responded to, and reported for products and services such as Journals, websites, and podcasts." AR, Tab 11b, IIa Technical Evaluation at 16. The agency characterized this

weakness as a "significant flaw in the proposal," because without feedback the agency would be unable to evaluate and improve its products and services. Id.

IIa's probable total cost was $42,914,604, slightly higher than Quanterion's probable cost of $41,059,904. The source selection authority determined that Quanterion's proposal--which he considered to be slightly superior technically and which was lower in cost--to represent the best value to the government. AR, Tab 16, SSDD at 6. In this regard, the source selection authority considered that both offerors were "acceptable" and "essentially equal" under past performance. Id. at 5. The proposals were essentially equal under the operations approach subfactor--with one strength each--and under the management subfactor--where neither proposal contained strengths, weaknesses, or deficiencies. Id. The discriminator, then, was the ratings under the ISS subfactor, where Quanterion's proposal was slightly better than IIa's proposal, which contained one weakness. Id. The source selection authority reaffirmed his decision to award to Quanterion, and this protest followed.

DISCUSSION

The protester challenges the agency's technical, past performance, and cost evaluations and asserts that the agency conducted a flawed source selection. We consider each of the allegations in turn and, as discussed below, we sustain the protest on the basis that the technical evaluation was unreasonable and resulted in a flawed source selection decision.

Quanterion's Proposal Strength

The protester asserts that the agency unreasonably assessed a strength in the awardee's proposal for a cloud-compatible HDIAC website running on the first day of contract award and for expertise that would assist the agency as it transitions its websites to a cloud environment. IIa asserts that the nature of the website hosting "is completely irrelevant to HDAIC users and equally irrelevant to the content maintained on the website." Comments on Supp. AR at 4. Moreover, the protester argues, the RFP gave no indication that the contractor would be evaluated on where the website was hosted. Id. As explained below, we agree, in part, with the protester that the assignment of this strength was unreasonable.

Agencies are required to evaluate proposals based solely on the factors identified in the solicitation, and must adequately document the bases for their evaluation conclusions. Global Analytic Info. Tech. Servs., Inc., B-298840.2, Feb. 6, 2007, 2007 CPD ¶ 57 at 4. While agencies properly may apply evaluation considerations that are not expressly outlined in the RFP where those considerations are reasonably and logically encompassed within the stated evaluation criteria, there must be a clear nexus between the stated criteria and the unstated consideration. Id.

The agency requirement here was for a contractor-provided website to disseminate journals and other publications, calendar of events, databases, and the like to the

HDIAC user community. RFP at 22. The agency awarded Quanterion's proposal a strength for a "cloud compatible HDIAC website running on the first day of the contract," which would provide added benefit to the government as it "executes its strategy of moving all public-facing websites to a cloud environment." AR, Tab 10, Quanterion Technical Evaluation, at 6.

We do not question the agency's assertion that there is a benefit to the agency from having the HDIAC website be cloud compatible. We find little relationship, however, between the RFP's stated requirement for a website and the agency's contention that it could also receive a benefit by leveraging Quanterion's expertise to "to gain efficiencies in moving other BCO websites to a Cloud environment." AR, Tab 10, Quanterion Technical Evaluation, at 6

The reasonableness of the award of any strength is whether the benefit identified by the agency is reasonably and logically encompassed by the announced evaluation criteria. Global Analytic Info. Tech. Servs., Inc., supra. In other words, would an offeror--knowing that the agency required a website on which to publish information--reasonably have anticipated that the government would reward offerors for proposing to assist with moving other public-facing websites to a cloud environment. Here, the RFP cannot reasonably be read as soliciting expertise in cloud migration. In our view, the skills and experience required to assist with the transfer of other websites to the cloud is materially different from what is required here--for the contractor to develop and maintain an agency website with useful professional material. As such, we find the agency's reliance on this perceived benefit to be unreasonable.

The agency also based the strength in question on the awardee's assertion that it would have the required HDIAC website up and running on day one, thus saving the agency time and money.[2] The agency's justification for the award of this strength, however, is not supported by the record. The agency defends its assessment of the strength by arguing that the awardee's proposal to have a "preliminary HDIAC website" with "basic user functionality" "meets and exceeds" the RFP requirement to develop and maintain an internet home page website for HDIAC within 60 days from the date of contract award. Supp. AR at 5-6. We disagree. The requirement was not for a preliminary website with basic functionality; nothing in the RFP requirement--or the 60 days allotted to perform the requirement--indicates that the requirement was for anything less than a fully functioning website. See RFP at 22. The fact that the awardee could, on day one of the contract, deploy a "preliminary HDIAC website" with "basic user functionality" does not satisfy the RFP requirement, let alone constitute a strength. The RFP required a fully functional website. Likewise, the assessment of a strength for providing less than the minimum RFP requirement is unreasonable.

[2] We note that, [DELETED] the protester, too, would have an HDIAC website up and running on day one, and IIa was not awarded a similar strength for early website launch.

In summary, we find that expertise with cloud migration of other websites is not reasonably encompassed by the RFP requirement to develop and maintain a website to disseminate information. We also find no support in the record for the agency's contention that the RFP requirement was for a preliminary website with basic user functionality, and that Quanterion could meet the requirement on day one. As a result, we sustain the protest on this basis.

IIa's Proposal Weakness

IIa also challenges the reasonableness of the one evaluated weakness in its proposal. The agency assessed the protester's proposal a weakness under technical subfactor 3, ISS, for failing to address how feedback would be obtained, responded to, and reported for products and services such as journals, websites, and podcasts. The protester contends that its proposed response to this requirement was just as robust as the awardee's, but the agency only assessed a weakness to IIa's proposal.

The evaluation of technical proposals, including past performance, is a matter within the discretion of the contracting agency. American Constr. Co., B-401493.2, Oct. 16, 2009, 2009 CPD ¶ 214 at 4. In reviewing an agency's evaluation, we will not reevaluate technical proposals; instead, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria. Id. An offeror's disagreement with the agency's evaluation, without more, does not render the evaluation unreasonable. Id.

As an initial matter, the products at issue here are generally found on an HDIAC website, where viewers are not required to provide contact information that would be useful to the contractor in obtaining the necessary feedback. See AR, Tab 10, Quanterion Technical Evaluation at 5 (noting that the HDIAC website will be used to create and disseminate podcasts, webinars, and other web-based services), and at 7 (noting that Quanterion will create and post original HDIAC content in various formats, including webinars, podcasts, and journals, on its website). The agency has not disputed the protester's claim that the HDIAC Journal is free and available for viewing and downloading from the HDIAC website. Supp. Comments at 13. The problem faced by both offerors--how to obtain feedback for website content--was identical, IIa argues, which was why both offerors proposed obtaining feedback indirectly. Id.

The Air Force contends that it "reasonably determined that Quanterion [unlike IIa] did not merit a weakness because Quanterion proposed use of their Quanterion Information Support System (QISS) to track view counts." Supp. AR at 7. Moreover, the agency argues that QISS automatically sends an email requesting feedback at each publication training/sale, and also tracks and consolidates the status of the responses. Id. at 8. The agency asserts that it reasonably determined that this approach met the RFP's customer feedback requirement.

We find the agency unequally applied its stated rationale for why Quanterion satisfied the RFP's feedback requirement. The agency is correct that the awardee's QISS tracks

view counts; however, in evaluating IIa's proposal, the agency argued that tracking view counts failed to satisfy the solicitation requirements. In this connection, IIa also proposed to track view counts for information available on the HDIAC website, and the agency assigned IIa's proposal a weakness. Consequently, the agency's assertion that QISS will be effective in obtaining feedback for products that are available on an HDIAC website is contradicted by the record. The agency assigned IIa's proposal alone a weakness for failure to obtain feedback on products available from the HDIAC website, when the record reflects that the awardee proposed a similar method to satisfy that same requirement. We therefore conclude that the agency unreasonably assigned this weakness to IIa's proposal.

Past Performance Evaluation

The protester asserts that the agency unreasonably concluded that IIa and Quanterion had "essentially equal" past performance. Comments at 11. The agency evaluated both offerors' proposals as substantial confidence under past performance; the protester contends that the agency neglected to consider discriminators in the two firms' past performance that demonstrate IIa's superiority.

Our Office will examine an agency's evaluation of an offeror's past performance only to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, since determining the relative merit or relative relevance of an offeror's past performance is primarily a matter within the agency's discretion. L-3 Nat'l Sec. Sols., Inc., B-411045, B-411045.2, Apr. 30, 2015, 2016 CPD ¶ 233 at 12. A protester's disagreement with the agency's judgment does not establish that an evaluation was improper. Id. Our review of the record leads us to conclude that the agency's past performance evaluation was unobjectionable, as described in further detail below.

The agency found that IIa had two very relevant and one relevant reference that "provided coverage across the required focus areas." AR, Tab 16a, SSDD at 5. IIa received exceptional ratings for all technical subfactors in the three referenced contracts. Id. In comparison, Quanterion had three references, two of which were evaluated as very relevant and one as relevant. Id. A Quanterion subcontractor provided one past performance reference, which was rated somewhat relevant. Id. at 6. Like IIa, Quanterion received exceptional ratings for all technical subfactors, and the references covered all of the required focus areas. Quanterion's subcontractor's past performance was evaluated as satisfactory. Id. at 5-6; AR Tabs 07a, 07b, 07c, 07e, & 09.

The record here demonstrates that the minor differences in the offerors' past performance are insufficient to call into question the reasonableness of the source selection authority's conclusion that the two offerors were "essentially equal" with regard to past performance. Thus, this allegation provides no basis on which to sustain the protest.

Cost Realism Analysis

IIa challenges the reasonableness of the agency's cost realism analysis, arguing that the agency had no basis to accept as realistic the awardee's escalation rate or travel and material other direct costs (ODCs).

Cost realism analysis is an independent review and evaluation of specific elements of each offeror's proposed costs to determine whether the proposed costs are realistic for the work to be performed; reflect a clear understanding of the requirements; and are consistent with the unique methods of performance and materials described in the offeror's technical proposal. Federal Acquisition Regulation (FAR) §15.404-1(d)(1). Agencies are required to perform such an analysis when awarding cost-reimbursement contracts to determine the probable cost of performance for each offeror. FAR §15.404–1(d)(2). Agencies are given broad discretion to make cost realism evaluations. Tridentis, LLC, B-410202.2, B-410202.3, Feb. 24, 2015, 2015 CPD ¶ 99 at 7. Consequently, our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonably based and not arbitrary. Id.

IIa proposed a labor escalation rate of [DELETED] percent, and Quanterion proposed a labor escalation rate of [DELETED] percent. AR, Tab 14c, Evaluation Brief at 104, 111. IIa's probable total cost was $42,914,604, slightly higher than Quanterion's probable cost of $41,059,904. The agency calculation of Quanterion's most probable cost included an adjustment recommended by the Defense Contract Audit Agency. See id. at 110. Except for that adjustment, the agency found Quanterion's cost to be "realistic, balanced, fair and reasonable." The record contains no specific finding by the agency that the awardee's escalation rate was realistic; it also contains no demonstration by the protester that it was unrealistic.

Moreover, assuming that Quanterion's [DELETED] percent escalation rate was unrealistic, the protester has not demonstrated that it was prejudiced by the awardee's use of this lower rate. Using the spreadsheets provided by Quanterion, and replacing the [DELETED] percent escalation rate with a [DELETED] percent escalation rate, Quanterion's total proposed cost increases to $41,297,515. Even if the awardee's escalation rate were replaced with the protester's higher rate, Quanterion's total proposed cost remains lower than IIa's. Because the protester has not demonstrated it was prejudiced by the awardee's use of an escalation rate that IIa contends was unrealistic, the agency's failure to find and document that Quanterion's escalation rate was realistic provides no basis on which to sustain the protest. DRS C3 Sys., LLC, B-310825, B-310825.2, Feb. 26, 2008, 2008 CPD ¶ 103 at 28 (noting that competitive prejudice is an essential element of a viable protest).

The protester also asserts that the agency failed to reconcile Quanterion's cost proposal with its technical proposal. Had the agency done so, the protester argues, Quanterion's cost advantage would have been much smaller, because Quanterion's cost proposal

failed to account for all of the travel costs contained in its technical proposal.[3] The solicitation required offerors to "provide physical representation at a minimum of one" venue per year. RFP at 28. Quanterion's technical proposal was noncommittal as to the number of events at which it would represent the agency per year. See Tab 5b, Quanterion Technical Proposal at 29. The awardee's cost proposal identified four conferences to which Quanterion would travel each year, which exceeded the minimum requirement of one. AR, Tab 5d, Quanterion Cost Model, Tab Prime ODC. On this record, we see no basis to conclude that the agency abused its "broad discretion" in conducting cost realism evaluations, and we thus find no basis on which to sustain the allegation that the agency's cost realism analysis was unreasonable.

Prejudice

Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. DRS C3 Sys., LLC, supra. We resolve any doubts regarding competitive prejudice in favor of the protester, and we will sustain a protest when the protester has shown a reasonable possibility that it was prejudiced by the agency's action. Coburn Contractors, LLC, B-408279.2, Sept. 30, 2013, 2013 CPD ¶ 230 at 5.

Here, the past performance and technical factors were of equal importance and, when combined, were significantly more important than cost. As previously noted, we find unreasonable one of the strengths assigned to Quanterion's proposal and the one weakness assigned to IIa's. Accounting for those findings could render IIa's proposal superior to Quanterion's under the technical factor. There is a reasonable possibility that had IIa's proposal been considered superior to Quanterion's under the technical factor, IIa's proposal would have been selected for award in a best-value tradeoff. Because the record establishes a reasonable possibility that IIa was prejudiced by the Air Force's actions, we sustain IIa's protest that the Air Force unreasonably evaluated proposals and conducted a flawed source selection.

RECOMMENDATION

We recommend that the agency conduct and document a new evaluation consistent with this decision prior to performing a new source selection.[4] We also recommend that

[3] Travel and material ODCs was CLIN 2, one of the CLINs for which the agency was to perform a cost realism analysis. IIa's probable travel and material ODC was $[DELETED], compared to $[DELETED] for Quanterion. AR, Tab 14c, Evaluation Brief at 104, 111.

[4] Because we sustain this protest on other grounds, and because small differences in total proposed costs could increase in importance, the agency may wish to evaluate and document a conclusion that Quanterion's proposed labor escalation rate of [DELETED] percent is realistic.

the agency reimburse the protester's reasonable costs associated with filing and pursuing its protest, including attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d). The protester's certified claims for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after the receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Thomas H. Armstrong
General Counsel