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Decision

Matter of: Normandeau Associates, Inc.

File: B-417136

Date: February 6, 2019

Kenneth A. Martin, Esq., The Martin Law Firm, PLLC, for the protester.
Brent Finley, Esq., Finley Legal, PLLC, for Four Peaks Environmental Science and Data Solutions the intervenor.
Theresa Hampson, Esq., and Zachary Jacobson, Esq., Department of the Army, for the agency.
Heather Self, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of awardee's experience is denied where the agency reasonably considered the experience of the awardee's proposed personnel performing similar work.

DECISION

Normandeau Associates, Inc. (Normandeau), a small business of Wenatchee, Washington, protests the award of a contract to Four Peaks Environmental Science and Data Solutions (Four Peaks), a small business also of Wenatchee, under request for proposals (RFP) No. W912EF18R0031, issued by the Department of the Army, Corps of Engineers, for fish counting and related services. Normandeau challenges the agency's technical evaluation of Four Peaks' proposal, arguing that the agency should have found Normandeau's proposal unacceptable under the solicitation's experience related factors.

We deny the protest.

BACKGROUND

The solicitation, issued on August 27, 2018 as a set-aside for small business concerns, contemplated the award of a fixed-price contract to provide adult fish counting services at eight mainstem dams on the Columbia and Snake Rivers, as well as related information technology (IT) systems development. Agency Report (AR), Tab 1, RFP

at 1 and 7. The RFP identified the following four evaluation factors: (1) price; (2) technical experience; (3) management experience; and (4) past performance. Id. at 85-87. With respect to price, the RFP provided the agency would evaluate prices for reasonableness and completeness. Id. at 85. The three non-price factors were to be rated for acceptability. With respect to factor 2 (technical experience) and factor 3 (management experience), the RFP defined an acceptable rating as a proposal that “clearly meets the minimum requirements of the solicitation.” Id. at 86-87.

As relevant here, under the technical experience factor, the RFP indicated the agency would evaluate an offeror’s experience performing “relevant Adult Fish Counting contracts.” Id. at 86. In this regard, the RFP directed offerors to demonstrate experience with the following elements: (1) visual real time fish counting for multiple species; (2) video fish counting for multiple species; (3) conducting fish count operations at multiple sites and for 24 hour operations; (4) experience working near and around dams and fishways; (5) procuring, operating and maintaining IT systems hardware and software; and (6) standing up internet network processes to convey fish count data. Id.

Under the management experience factor, the RFP established that the agency would evaluate whether an offeror effectively demonstrated an understanding of the solicitation requirements for managing appropriate personnel levels at multiple locations, contract transitioning, developing and maintaining data recording and transfer procedures, managing subcontracts or joint ventures, training personnel in fish identification and counting methods, and developing quality control procedures. RFP at 87.

The agency received three proposals prior to the RFP’s September 28, 2018 closing, to include proposals from Four Peaks and Normandeau. Contracting Officer’s Statement (COS) at 2. The record reflects that the agency’s Source Selection Evaluation Board (SSEB) evaluated both Normandeau’s and Four Peaks’ proposals as acceptable under each of the three of the non-price factors. AR, Tab 12, SSEB Consensus Report, at 7-8. The SSEB rated the third proposal technically unacceptable for two of the non-price factors. Id. at 11-12.

With regard to Four Peaks’ evaluation, the SSEB noted that Four Peaks did not identify direct organizational experience performing adult fish counting. AR, Tab 12, SSEB Consensus Report, at 9. The SSEB noted that some of Four Peaks’ proposed key staff had adult fish counting experience as well as experience with 24-hour operations of activities similar to fish counting (smolt monitoring). Id.; AR, Tab 27, Four Peaks’ Proposal at 8-11. The SSEB also noted that Four Peaks’ proposal demonstrated the firm’s experience working near or around dams, with development of a data management system, hardware and software, establishment of internet connectivity, and development of an IT system to manage and transmit adult fish count data. Id. The SSEB considered Four Peaks’ proposal to have met the minimum requirements of the solicitation and therefore rated it acceptable for the technical experience factor. AR, Tab 12, SSEB Consensus Report, at 9.

For the management experience factor, Four Peaks' proposal indicated it had experience managing subcontractors, handling contract transition, and developing and maintaining data processes and quality control procedures. AR, Tab 27, Four Peaks' Proposal, at 16-19. The record reflects that the SSEB considered this experience, as well as the experience of Four Peaks' proposed key staff since the proposal indicated that they had experience managing personnel levels and training personnel in fish identification and counting methods. AR, Tab 12, SSEB Consensus Report, at 9. The SSEB considered Four Peaks' proposal to have met the minimum requirements of the solicitation and therefore rated it acceptable for the management experience factor. Id.

With respect to price, the record reflects that Four Peaks submitted the lowest price of \$11,106,736, whereas Normandeau's price was \$12,998,791. COS at 3. The contracting officer (CO), who was also the source selection authority (SSA), selected Four Peaks' proposal for award as it was the lowest-priced technically acceptable proposal. AR, Tab 13, Source Selection Decision, at 8. On November 9, the agency notified Normandeau of the award decision, and provided the protester with both an initial and enhanced debriefing. COS at 3-4. This protest followed.

DISCUSSION

Normandeau challenges the evaluation of Four Peaks' proposal under the technical experience and management experience factors, asserting that Four Peaks should have been found technically unacceptable because the company lacks relevant experience.¹ Protest at 9-14. In this regard, Normandeau's sole argument is that it was improper for the agency to consider the experience of Four Peaks' personnel in its evaluation because the solicitation established only that the agency would evaluate the experience of the offeror. Id. According to Normandeau, the RFP's use of the phrase "Offeror's experience" limited the agency to consideration of Four Peaks' direct organizational experience without regard to the experience of its personnel.² Id.

¹ Normandeau also challenged the agency's evaluation of Four Peaks' price and past performance. Protest at 6-9 and 12-14. Although the agency substantively responded to these protest grounds, Normandeau's comments on the Agency Report neither refute the agency's substantive response nor address the merits of these protest allegations. Accordingly, we dismiss these allegations as abandoned. See 4 C.F.R. § 21.3(i)(3); KSJ & Assoc., Inc., B-409728, July 28, 2014, 2014 CPD ¶ 222 at 5.

² Normandeau also argues there is no indication in Four Peaks' proposal that it actually intends to use the personnel whose experience the technical evaluators considered during the evaluation. The protester is mistaken in this regard. Four Peaks' proposal listed the personnel as representing its "key staff" comprising "a highly-qualified team of fisheries scientists with large-scale program experience that will be complemented by a talented team of information technology professionals." AR, Tab 27, Four Peak's Proposal, at 10. Further, Four Peaks included these key staff in its "Proposed Organization Chart for the Adult Fish Counting Program, 2019-2023." Id. at 12.

In reviewing an agency's evaluation of proposals and source selection decision, it is not our role to reevaluate submissions. Harbor Servs., Inc., B-408325, Aug. 23, 2013, 2013 CPD ¶ 214 at 5. Rather, where a solicitation calls for the evaluation of experience, we will examine the record to ensure that the evaluation was reasonable and consistent with the solicitation's evaluation criteria. Divakar Techs., Inc., B-402026, Dec. 2, 2009, 2009 CPD ¶ 247 at 5. A protester's disagreement with the agency's evaluation judgments does not establish that the evaluation or the source selection decision was unreasonable. Harbor Servs., Inc., *supra*, at 5.

Here, we reject the protester's challenge of the agency's evaluation of Four Peaks' proposal under the technical experience and management experience factors. The entirety of the challenge is based on the mistaken premise that the solicitation precluded the agency from considering the experience of Four Peaks' key personnel. As noted above, the solicitation generally provided that the agency would consider the "offeror's experience." The solicitation did not include any further limitation regarding the consideration of an offeror's personnel, or a provision establishing that the agency would separately consider the experience of personnel or subcontractors. While the protester advances a narrow reading of the term "offeror" under the solicitation as limited to the corporate entity submitting the proposal, this narrow reading is not warranted.

Where a solicitation provides for the evaluation of the experience of the "offeror," and does not otherwise contain specific language to indicate that the agency would not consider the experience of an offeror's proposed personnel, or separately consider such information, the general reference to the "offeror" affords the agency the discretion to consider the demonstrated experience of an offeror's proposed personnel or subcontractors because such experience and past performance may be useful in predicting success in future contract performance. See Environmental Health Research & Testing, Inc., B-237208, Feb. 9, 1990, 90-1 CPD ¶ 169 at 6 (agency reasonably considered experience of offeror's personnel when evaluating "offeror experience"); Harbor Servs., Inc., *supra*, at 4 (agency properly may evaluate experience of key personnel under corporate experience factor); Advant-EDGE Sols., Inc., B-400367.2, Nov. 12, 2008, 2008 CPD ¶ 210 at 4 (agency properly may consider experience of predecessor firm or corporation's principal officers under experience evaluation factor).³

³ Normandeau's argument that information about an offeror's personnel can only be used when evaluating an offeror's past performance is incorrect. Our prior decisions make clear that agencies properly may consider information about an offeror's personnel when evaluating organizational experience type factors, such as the two factors at issue here. See Harbor Servs., Inc., *supra*, at 4; Advant-EDGE Sols., Inc., *supra*, at 4. Nor is this a situation where the agency sought to separately and independently assess the experience of the offerors' personnel because the solicitation did not set forth separate bases for evaluation in this regard. See e.g., Washington

(continued...)

As set forth above, the record indicates the agency relied on the experience of Four Peaks' proposed key staff with fish counting operations and related IT services, and Four Peaks' proposed use of these personnel in performance of the work required by the solicitation. These individuals included, for example, the project manager, a fisheries scientist with prior experience managing fish counting programs at dams on the mainstem Columbia River; the supervisor for the Columbia River work, who has 23 years' experience in fish passage research and projects; and the IT manager, who previously designed and managed the development of information systems for real-time fisheries compliance monitoring at several hydroelectric projects. AR, Tab 27, Four Peaks' Proposal, at 10-11. Based on this record, Normandeau has shown no basis to question the agency's evaluation of Four Peaks' acceptable rating under the solicitation's experience factors.

The protest is denied.

Thomas H. Armstrong
General Counsel

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State Comm'n for Vocational Educ. - Recon., B-218249, July 19, 1985, 85-2 CPD ¶ 59 at 6.