



Decision

Matter of: Computer World Services

File: B-417354

Date: May 16, 2019

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DIGEST

Protest challenging an agency's evaluation of the protester's quotation is denied where the agency's evaluation was reasonable and consistent with the terms of the solicitation, and where the agency reasonably determined after the technical review to exclude the protester from further consideration.

DECISION

Computer World Services (CWS), of Falls Church, Virginia, protests the award of a contract to 1901 Group, LLC, of Blacksburg, Virginia, pursuant to request for quotations (RFQ) No. 95332418Q0164, issued by Millennium Challenge Corporation (MCC), Office of Chief Information Officer (OCIO) in the Administration and Finance Department, for information technology (IT) operations and maintenance support services. The protester challenges the agency's evaluation of its technical quotation. The protester also alleges that the agency engaged in disparate treatment by assessing a deficiency to CWS's quotation for lack of key personnel.

We deny the protest.

BACKGROUND

On August 31, 2018, MCC issued the RFQ to small business holders of General Services Administration (GSA) IT Schedule 70, special item number 132-51, contemplating the establishment of a single blanket purchase agreement (BPA), on a best-value tradeoff basis. Agency Report (AR), RFQ at 21, 67; Contracting Officer's

Statement (COS) at 429.¹ The RFQ sought quotations for services required for infrastructure and engineering support, operations and maintenance support, IT service desk end-user support, and audio/visual support for the agency's conference and meeting spaces, as well as procurement support of OCIO's IT requirements.² RFQ at 25.

The solicitation provided that call (or task) orders would be issued under the BPA on a hybrid, fixed-price and time-and-materials basis, and advised vendors that MCC intended to issue the initial 1-year call order concurrent with the establishment of the BPA.³ RFQ at 21, 67; COS at 429. The RFQ advised that quotations would be evaluated in two phases. In phase 1, the agency was to evaluate quotations based on the following evaluation factors, in descending order of priority: (1) call order technical response; (2) call order management and staffing; (3) BPA corporate capabilities; and (4) BPA past performance. RFQ at 67. Quotations found most highly rated in phase 1 would proceed to be evaluated under phase 2, based on the same four factors from phase 1, plus the following factors: (5) oral presentations, and (6) price quote (BPA rates and call order 0001 pricing table). RFQ at 68. The non-price evaluation factors, when combined, were significantly more important than price. Id. As the quotations' ratings became more similar under the non-price evaluation factors, however, the importance of price increased. Id.

As relevant here, the RFQ included certain key personnel requirements. Specifically, the solicitation identified the project manager, service desk manager, and operations manager as mandatory key personnel for the requirement. RFQ at 52-53. All proposed key personnel were required to attend the oral presentations at MCC headquarters during the technical evaluation stage. RFQ at 68. The RFQ further advised that all proposed key personnel "must be available to begin work on the designated start date." RFQ at 65.

Of particular significance here, section L of the RFQ advised that at any time prior to award, the government might exclude from further consideration a quotation that was not among the most highly rated or was not likely to be selected for award. RFQ at 67. In addition, section M of the RFQ provided that a quotation evaluated as unacceptable under any technical factor or sub-factor was ineligible for award. RFQ at 70.

¹ All references to the administrative record accompanying the agency report include Bates numbers provided by the agency. Accordingly, references to the record throughout this decision will indicate the title of the document as included in the AR followed by Bates numbers.

² The RFQ consolidated three different IT contracts, performed by three different contractors, into a single requirement. AR, Long-Form Acquisition Plan Template, at 1-2. CWS is the incumbent contractor on the current contract for desk support services. Id.

³ The BPA is valued at \$25,097,353. AR, Business Clearance Memorandum at 365.

In response to the RFQ, the agency received 13 quotations,⁴ including those submitted by CWS and 1901 Group. COS at 430. After the evaluation under phase 1, seven vendors were invited to participate in phase 2, which involved an oral presentation and an opportunity to submit revised quotations. AR, Technical Evaluation Panel Consensus Report for Phase 2 (TEP Report), at 323.

As relevant to this protest, the agency evaluated the quotations of 1901 Group and CWS as follows:

	1901 Group	CWS
Call Order Technical Approach	Outstanding	Acceptable
Call Order Management and Staffing	Outstanding	Unacceptable
BPA Corporate Capabilities	Outstanding	Acceptable
BPA Past Performance	Acceptable	Neutral
Oral Presentation	Good	Marginal
Overall Rating	Outstanding	Marginal

AR, TEP Report, at 326.

Specifically, the agency rated CWS’s quotation as unacceptable under the management and staffing factor, based upon the agency’s assessment of a significant deficiency with regard to CWS’s key personnel. AR, TEP Report, at 337. In its evaluation report, the technical evaluation panel (TEP) noted that CWS advised the agency that after it submitted its quotation and before it made its oral presentation and submitted its quotation revisions, its proposed operations manager resigned from the firm. Id. CWS’s revised quotation still proposed this person for the position, however, and failed to identify any replacement. Id. The TEP identified this as a “major omission,” presenting significant risk for the protester’s ability to successfully meet the requirement. Id. The evaluators noted, further, that this risk was compounded by weaknesses in other areas of CWS’s quotation. Id.

In the evaluation of the oral presentation, which was rated marginal, the TEP noted one strength, two weaknesses, one deficiency, and one risk. Id. at 339. The TEP pointed out that an “operations manager was not present” at the oral presentation, “nor [was his] absence addressed,” despite “bidders [being] instructed to have all three key personnel present for the oral presentations.” Id. At the conclusion of phase 2 of the technical evaluation, the agency assigned CWS’s quotation the overall rating of marginal. Id. at 326. Relying on section M of the RFQ, which states that a quotation evaluated as unacceptable under any technical factor or sub-factor was ineligible for award, and section L, which provides that the government might exclude a quotation that was not among the most highly rated or was unlikely to receive an award, the agency

⁴ Out of 13 submissions, three were eliminated due to noncompliance with submission instructions.

determined that CWS's quotation was "clearly . . . not among the most highly rated," and, therefore, "extremely unlikely to receive an award," and proceeded to remove CWS from further consideration. Memorandum of Law at 9; AR, Business Clearance Memorandum at 374. On February 19, 2019, the agency notified CWS that it was not selected for award. Protest at 10. After requesting and receiving a debriefing, CWS filed this protest with our Office.

DISCUSSION

CWS challenges the agency's evaluation of its quotation under the technical response, management and staffing, and past performance factors. Protest at 7-11. The protester also alleges that the agency evaluated quotations disparately, claiming that it received a deficiency after its operations manager resigned prior to oral presentation, while 1901 Group also lacked key personnel while the procurement was being conducted but it was not rated unfavorably. Protest at 10. We have considered all of the allegations raised by CWS and find no basis to sustain the protest.⁵

As an initial matter, we note that where, as here, an agency issues an RFQ to GSA Federal Supply Schedule contractors under Federal Acquisition Regulation (FAR) subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. O'Gara-Hess & Eisenhardt Armoring Co., LLC, B-415178.2, B-415178.3, Apr. 18, 2018, 2018 CPD ¶ 160 at 6. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Innovative Mgmt. & Tech. Approaches, Inc., B-413084, 413084.2, Aug. 10, 2016, 2016 CPD ¶ 217 at 4. A protester's disagreement with the agency's judgment does not establish that an evaluation was unreasonable. DEI Consulting, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

As noted above, CWS argues that the agency's evaluation of its quotation under the management and staffing factor was unreasonable, and alleges disparate treatment by the agency. CWS asserts that its deficiency rating for lack of key personnel was arbitrary and capricious and that, because the awardee also did not have the required key personnel available but did not receive an unfavorable rating, the protest should be sustained. Protest at 10.

⁵ CWS also raises various additional challenges to the agency's evaluation of its own and 1901 Group's quotations. However, because we conclude that the agency reasonably assessed the deficiency and evaluated the protester's quotation as unacceptable, as discussed above, it follows that CWS was ineligible for award. In this circumstance, CWS lacked the requisite legal interest to maintain its other bases of protest.

We disagree. The record here does not support CWS's allegations regarding an unreasonable evaluation of its management and staffing factor by the agency. There is no dispute concerning the solicitation's requirement that the three mandatory key personnel be available to start working on the designated contract start date, nor is there any basis to conclude that the protester had key personnel in place at the time of the final technical evaluation. In this circumstance, the agency's assessment of a significant deficiency based on the protester's failure to meet the RFQ's key personnel requirement is consistent with the terms of the solicitation. Accordingly, we deny this basis of protest.

With regard to CWS's disparate treatment allegations, the protester is essentially arguing that the agency waived the key personnel requirements when it evaluated 1901 Group's quotation, and that it, therefore, had to waive the requirement for CWS. Again, we disagree, as described in further detail below.

According to the protester, 1901 Group's key personnel positions, including operations and incident manager, service desk manager, and IT operations and incident manager, were also not filled at the time of the TEP's evaluation, and 1901 Group was actively recruiting for those positions. Id.; Comments at 5. In support of its allegations, CWS attaches a job posting for 1901 Group's IT operations and incident manager position, claiming that the description of duties in that posting was "copied and pasted directly from the solicitation." Id. Not only was 1901 Group actively recruiting, the protester asserts, but the protester also claims that, "as incumbent on site," it has "personal information" that the proposed awardee's staff was not present at the contract kick-off meeting. Id.

MCC disputes those allegations. COS at 454. The agency maintains that the awardee proposed the same key personnel in its quotation and throughout the solicitation process. Id. Moreover, MCC submits a declaration from its acting chief information officer, who served as a technical evaluation chair (TEC) for the RFQ, that specifically refutes CWS's claims that the awardee's key personnel were absent at the "kick-off" meeting. Decl. of TEC at 1-2. In his declaration, the TEC explains that the same three key individuals, listed in 1901 Group's initial quotation, were subsequently included in the revised quotation during the second phase of the evaluation process. In addition, the TEC explains that these individuals attended both the oral presentations and the "kick-off" meeting after the award. Id. Attached to the declaration are copies of the sign-in sheets from the oral presentation and "kick-off" meeting, which bear the same three signatures of proposed key personnel. Attachs. to the Decl. of TEC.

On this record, we find no basis to conclude that the agency engaged in disparate treatment. In this regard, we need not decide whether the 1901 Group's job posting attached to the current protest was indeed targeting potential key personnel for the IT requirement at issue, because the mere effort to hire additional qualified personnel to meet the needs of an RFQ, through job posting or otherwise, generally does not demonstrate that the vendor failed to propose appropriate personnel or misrepresented

the availability of the personnel. See, e.g., PricewaterhouseCoopers LLP; IBM U.S. Fed., B-409885 et al., Sept. 5, 2014, 2014 CPD ¶ 289 at 11 n.9. Moreover, here, the protester does not attempt to disprove nor in any way comment on MCC's arguments advanced in the TEC's declaration, effectively abandoning its claim about unavailability of awardee's key personnel. Forest City Military Cmtys., LLC, B-299577, June 29, 2007, 2007 CPD ¶ 128 at 6 n.4.

In sum, the protester fails to present facts that reasonably indicate that the agency's determination of CWS's unacceptability under management and staffing factor was anything other than rational. We also find no evidence of disparate treatment by the agency. Because the solicitation clearly provided that a quotation evaluated as unacceptable in any technical factor was ineligible for award, RFQ at 70, and that a quotation might be excluded from further consideration when it was not among the most highly rated or was unlikely to be selected for award, RFQ at 67, we need not consider any other arguments made by the protester. Our review of the record confirms that in accordance with the terms of the RFQ, the agency reasonably determined that the protester did not have a realistic prospect of award given its significantly lower, as compared with the awardee, technical approach rating, its unacceptable rating under the management and staffing factor, and its overall rating of marginal.

The protest is denied.

Thomas H. Armstrong
General Counsel