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Decision

Matter of: Red River Science & Technology, LLC

File: B-417798.2

Date: October 24, 2019

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Robert K. Tompkins, Esq., Gordon Griffin, Esq., Vijaya S. Surampudi, Esq., Holland & Knight, LLP, for Bowhead Operations and Maintenance Solutions, LLC, the intervenor.
Matthew R. Wilson, 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

Agency reasonably downgraded the protester's past performance where the protester lacked relevant past performance in a primary performance area required by the solicitation and the protester's subcontractor, which had the relevant past performance, was not proposed to perform that area of the work.

DECISION

Red River Science & Technology, LLC, a service-disabled veteran-owned HUBZone disadvantaged small business of Lawton, Oklahoma, protests the issuance of an order to Bowhead Operations & Maintenance Solutions, LLC, a small disadvantaged business of Alexandria, Virginia, under request for proposals (RFP) No. W52P1J-19-R-0003, issued by the Department of the Army, Army Materiel Command for logistics support services at Fort Jackson, South Carolina. Red River challenges the Army's evaluation of its past performance as only acceptable, arguing that the agency failed to reasonably consider the past performance of its proposed subcontractor as required by the terms of the solicitation.

We deny the protest.

BACKGROUND

The Army issued the solicitation as a set-aside for small disadvantaged businesses holding Enhanced Army Global Logistics Enterprise (EAGLE) Basic Ordering Agreements (BOA). Agency Report (AR), Tab 3, RFP, at 2. The solicitation sought proposals for the provision of maintenance, supply, and transportation logistics support services at Fort Jackson, South Carolina. Id. The Army anticipated issuing a requirements-type order with both fixed-price and cost-reimbursable elements for a 1-year base period and four 1-year option periods. Id. at 2-3.

The solicitation established that the Army would make award based on three factors: (1) technical acceptability; (2) past performance; and (3) cost/price. RFP at 2; AR, Tab 7, RFP amend. 4, at 19. According to the award scheme set forth in the solicitation, the Army would first evaluate proposals for technical acceptability on a pass/fail basis. AR, Tab 7, RFP amend. 4, at 19-20. Next, the Army would evaluate the three lowest-priced offerors under the past performance factor. Under this factor, the Army would perform a qualitative assessment of the past performance of recent and relevant contracts performed by the offeror, and by any subcontractors proposed to perform 20 percent or more of the total proposed cost/price. Based on this assessment, the Army would assign the three lowest-priced offerors a past performance confidence rating, the highest of which was “substantial confidence.” The agency would continue to evaluate the technically acceptable offerors to determine whether any had a past performance rating of substantial confidence because the solicitation dictated that award would be made to the lowest-priced firm with a past performance rating of substantial confidence. RFP at 2; AR, Tab 7, RFP amend. 4, at 18. If none of the technically acceptable offerors received a substantial confidence past performance rating, the Army would consider all factors and conduct a best-value tradeoff. AR, Tab 7, RFP amend. 4, at 20.¹

For the purpose of assessing past performance, the solicitation required offerors to provide examples of recent and relevant past contract efforts. AR, Tab 7, RFP

¹ The solicitation, in multiple places, provides that cost/price proposals would be evaluated for price reasonableness, and that prices would be evaluated for balance. See e.g., AR, Tab 7, RFP amend. 4, at 23. The solicitation also includes language providing for a cost realism evaluation. Id. at 19 (“All proposals which are determined to have Substantial Confidence in Past Performance with a realistic cost and fair and reasonable evaluated price, will move” to the next evaluation step.). The contracting officer’s statement references the cost/price factor being evaluated for both realism and reasonableness. AR, Tab 1, Combined Contracting Officer’s Statement and Memorandum of Law, at 3. The evaluation and source selection record provided by the agency, however, does not reflect that the agency conducted a cost realism evaluation. See e.g., AR, Tab 64, Source Selection Decision (SSD), at 5 (“The Cost/Price Factor was evaluated for price reasonableness[.]”). The protester does not challenge this aspect of the agency’s evaluation.

amend. 4, at 12, 21. The solicitation established that the agency could also consider information it obtained from other sources. Id. The solicitation defined recent contracts as those performed within three years of the solicitation's closing date. Id. at 22. Relevant contracts were those reflecting similar experience, magnitude and complexity. Id. To demonstrate similar experience, a past performance example had to reflect the performance of work in one of three functional areas required by the solicitation--maintenance, supply, or transportation. Id. For magnitude and complexity, the solicitation established minimum average annual dollar value thresholds for past performance examples to be considered relevant. Id. at 22-23.

If an offeror proposed to use subcontractors, the solicitation stated that the offeror's past performance record "will be assessed in its totality to determine the Offeror's past performance rating." AR, Tab 7, RFP amend. 4, at 21. The solicitation also established that, when evaluating past performance, the Army may consider the specific functional areas the offeror and its proposed subcontractors have performed, the areas each is proposed to perform, and the overall percentage of participation proposed for the offeror and any subcontractors. Id. at 21-22.

The Army received seven timely proposals, including those of Red River and Bowhead. AR, Tab 63, Source Selection Evaluation Board (SSEB) Report, at 1; Tab 64, SSD, at 2. Three proposals were evaluated as technically acceptable. AR, Tab 63, SSEB at 3; Tab 64, SSD, at 3. The Army then evaluated the past performance of these three offerors--including Red River, which had the lowest price of \$27,997,092, and Bowhead, which had a price of \$29,416,373. AR, Tab 63, SSEB Report, at 2, 6; Tab 64, SSD, at 2, 4.

The record reflects that Red River proposed to perform the transportation functional area and a portion of the supply functional area itself, totaling approximately 54 percent of its proposed price. AR, Tab 59, Red River Cost/Price and Teaming Matrix. Red River also proposed to use a subcontractor, The Logistics Company (TLC), for all of the work under the maintenance functional area and a portion of the supply functional area, totaling approximately 46 percent of its proposal price. Id. As required by the solicitation, Red River's proposal included an organization chart showing the relationship between Red River and TLC, and included sections for various areas of the proposed work. AR, Tab 7, RFP amend. 4, at 10; AR, Tab 45, Red River Staffing and Management Plan, at 3-4. For some of the work areas, the chart showed a mix of Red River and TLC personnel performing the work--e.g., Red River proposed a mix of its own and TLC personnel for operation of the central issue facility at Fort Jackson. Id. at 4. For other work areas, the chart showed only Red River or only TLC personnel performing the work. As relevant here, Red River proposed only its own personnel to perform work for the transportation functional area. Id. at 3.

In the past performance section of its proposal, Red River identified nine past performance examples, eight for itself and one for its subcontractor, TLC. AR, Tab 48, Red River's Past Performance Examples; AR, Tab 57, TLC's Past Performance Example. Four of Red River's eight examples did not involve any transportation work.

AR, Tab 48, Red River's Past Performance Examples. The remaining four examples involved some transportation work. Id. The sole example for TLC reflected work in all three functional areas (supply, maintenance, and transportation). AR, Tab 57, TLC's Past Performance Example.

The Army evaluated all nine past performance examples included in Red River's proposal, as well a number of other past performance examples for both entities, which the Army obtained from its database of past and present orders under the EAGLE BOAs and the Past Performance Information Retrieval System. AR, Tab 62, Past Performance Evaluation, at 4. For Red River's four examples with transportation work, the Army concluded that none were relevant because they did not meet the solicitation's minimum dollar thresholds to be considered similar in magnitude and complexity.² Id. at 6-7. The Army concluded that Red River's other examples demonstrated recent and relevant past performance of satisfactory quality in the supply functional area. Id. at 9, 17, 25. The Army also found Red River's proposed subcontractor, TLC, to have recent and relevant past performance of very positive quality in all three functional areas (maintenance, supply, and transportation). Id. at 9-17, 18-24, 26.

Because the solicitation requires the performance of "significant work" in the transportation functional area, Red River's lack of relevant past performance in this area created "some uncertainty about its ability to perform the Ft. Jackson effort." AR, Tab 62, Past Performance Evaluation, at 25-26; Tab 63, SSEB, at 7-8. While TLC "demonstrated extensive favorable performance" in all three functional areas, including transportation, the Army concluded that TLC's ability to perform the transportation functional area had "no impact" on the evaluation because Red River did not propose TLC to perform the work under the transportation functional area; rather, Red River proposed to perform the transportation work itself, with TLC performing work in the maintenance and supply functional areas. Id. Based on Red River's demonstrated ability to perform the supply area, TLC's demonstrated ability to perform the maintenance and supply areas, and the uncertainty about Red River's ability to perform in the transportation area, the evaluators assigned Red River's proposal a satisfactory confidence past performance rating. Id. The source selection authority (SSA) agreed with the evaluators' conclusion regarding Red River's lack of relevant past performance for the transportation functional area as well as Red River's satisfactory confidence rating. AR, Tab 64, SSD, at 4.

Bowhead's proposal received a rating of substantial confidence under the past performance evaluation factor. AR, Tab 63, SSEB Report, at 16. In accordance with

² Red River argues that the Army "does not appear to have included" three of its past performance examples for transportation work in the evaluation. Protest at 8 n. 6. The record reflects that the Army considered all three examples, and concluded that they failed to meet the solicitation's minimum dollar thresholds for magnitude and complexity. AR, Tab 62, Past Performance Evaluation, at 6-7. Thus, the factual predicate for Red River's argument is not supported by the record.

the solicitation, the SSA selected Bowhead's proposal for award because it was the lowest-priced technically acceptable proposal with a substantial confidence past performance rating. AR, Tab 64, SSD, at 6. Following a debriefing, Red River filed the subject protest.

DISCUSSION

Red River challenges the agency's conclusion that it failed to demonstrate relevant past performance for the transportation functional area. The protester argues that its subcontractor, TLC, demonstrated relevant past performance in this area and that the agency should have considered this information even though Red River's proposal did not identify TLC as performing the transportation work. In support of its position, the protester notes that "throughout its proposal" it referred to TLC as its "teammate," and maintains that it "could have received TLC's assistance in the transportation functional area." Protest at 12; Protester's Comments at 1, 3-4. Red River also argues that the solicitation required the Army to base its past performance rating on the combined performance record of itself and TLC without regard to the areas of work for which TLC was proposed. Protest at 10-11; Protester's Comments at 2.

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of agency discretion that we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented. DA Defense Logistics HQ, B-411153.3, Dec. 2, 2015, 2015 CPD ¶ 358 at 4. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was improper. Id.; Affordable Eng'g Servs., Inc., B-407180.4 et al., Aug. 21, 2015, 2015 CPD ¶ 334 at 10. For the reasons discussed below, we find the protester's arguments to be without merit.

First, we reject the protester's assertion that the agency should have considered the past performance of its subcontractor TLC for the transportation work because it referred to TLC as its "teammate" and because the protester alleges that it could have received TLC's assistance for this area. As noted above, the solicitation required offerors to identify proposed subcontractors, the functional areas they would perform, the total estimated dollar value of performance, and the percentage of the subcontractor(s)' participation. AR, Tab 7, RFP amend. 4, at 8. The solicitation also required submission of an "Organizational Diagram" depicting the tasks to be performed by the offeror and each proposed subcontractor. Id. at 10.

Although TLC may have been its "teammate," Red River's proposal specified that it would self-perform the transportation work, and gave no indication that TLC would provide assistance of any kind. Rather, the proposal identified TLC as performing in the areas of maintenance and supply only, and included an organization chart showing all transportation-related work being performed solely by Red River. AR, Tab 59, Red River Cost/Price and Teaming Matrix; Tab 45 Red River Staffing and Management Plan, at 3. Based on the clear division of work set forth in Red River's proposal, the

agency reasonably considered the extent of Red River's past performance for the transportation area and not that of its "teammate" TLC. To the extent the protester argues that it could have received assistance from TLC, even though the protester's proposal made no mention of any such assistance, the agency reasonably assumed that none would be provided. Offerors bear the burden of submitting well-written proposals containing adequate detail to demonstrate compliance with the solicitation requirements and to allow a meaningful review by the procuring agency. See e.g., LOTOS S.r.l., B-411717.5, Nov. 19, 2015, 2015 CPD ¶ 366 at 4. Based on the information provided in Red River's proposal, the Army reasonably concluded that TLC would not have any role in providing transportation services to Fort Jackson were Red River to be awarded the contract. Moreover, because Red River had no relevant past performance, the agency reasonably identified this lack of information as an area of concern and reasonably assigned Red River an acceptable rating under the past performance factor.

Second, we reject Red River's assertion that the solicitation required the Army to base its past performance rating on the combined performance record of itself and TLC without regard to the areas of work for which TLC was proposed. In support of its position, Red River relies on language in the solicitation stating that "[i]f an Offeror proposes the use of Subcontractors the Offeror's past performance record will be assessed in its totality to determine the Offeror's past performance rating." Protest at 5-6 citing AR, Tab 7, RFP amend. 4, at 21-22; Protester's Comments at 2. Immediately following this sentence, however, the solicitation established that the Army may consider the specific functional areas previously performed by an offeror and its subcontractor(s), the specific functional areas an offeror and its subcontractor(s) were proposed to perform, and the offeror and its subcontractor(s)' overall percentage of participation for the requirement. AR, Tab 7, RFP amend. 4, at 21-22. Reading the solicitation in its entirety, we find nothing objectionable about the agency's consideration in its past performance evaluation of the anticipated division of work between Red River and TLC. When deciding whether a party's proffered interpretation of a solicitation is reasonable, our Office reads the solicitation as a whole and in a manner that gives effect to all its provisions. See e.g., Matson Navigation Co., Inc., B-416976.2 et al., Jan. 24, 2019, 2019 CPD ¶ 69 at 7.

The protest is denied.

Thomas H. Armstrong
General Counsel