



Decision

Matter of: Richen Management, LLC

File: B-417888

Date: November 6, 2019

Richard McCue for the protester.
Robert W. Foltman, Esq., General Services Administration, for the agency.
Jacob Talcott, Heather Weiner, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency's selection of a higher-rated, higher-priced proposal for award is unobjectionable where the agency's best-value tradeoff decision was reasonable and consistent with the terms of the solicitation.

DECISION

Richen Management, LLC, a small business concern located in Dover-Foxcroft, Maine, protests the award of a contract to Sparkle Janitorial Services, Inc., also a small business concern, of Detroit, Michigan, under request for proposals (RFP) No. 47PF0019R0070, issued by the General Services Administration (GSA) for janitorial and related services. Richen argues that the best-value tradeoff and source selection decision was unreasonable.

We deny the protest.

BACKGROUND

On May 3, 2019, GSA issued the solicitation, which was set aside for Historically Underutilized Business Zone (HUBZone) small businesses, and issued under the procedures of Federal Acquisition Regulation (FAR) part 15. RFP at 85; Agency Report (AR), Tab A, Source Selection Decision/Price Negotiation Memorandum (SSD/PNM) at 1-2. The solicitation sought janitorial and related services at three locations in Michigan--Blue Water Bridge, Ambassador Bridge, and the Detroit Metro Airport--and required that the contractor provide the management, supervision, manpower, equipment, and supplies necessary for these janitorial and related services. RFP § B.1.

The solicitation anticipated the award of a fixed-price contract for a base year and four 12-month options. Id. at 1, 151.

The solicitation provided for award on a best-value tradeoff basis considering the following two evaluation factors: price and past performance. Id. § M.1. The solicitation provided that past performance was “significantly more important” than price. Id.

Under the past performance factor, offerors were instructed to identify a minimum of three references from contracts considered recent and relevant in demonstrating their ability to perform the RFP’s requirements. Id. § L.6. The solicitation provided that the agency would evaluate the offeror’s past performance by analyzing those references, and interviewing the offeror’s current and past customers. Id. The solicitation also allowed the contracting officer to analyze “any other relevant contract” of the offeror. Id.

GSA received six proposals prior to the June 3 closing date, including those of Richen and Sparkle. AR, Tab A, SSD/PNM at 1-2. Following the evaluation, the contracting officer established a competitive range, which included Richen and Sparkle. Id. The agency entered into discussions with all of the offerors in the competitive range and requested revised proposals. Id. at 2. The agency evaluated the revised proposals submitted by Richen and Sparkle as follows:

	SPARKLE	RICHEN
Past Performance	Excellent	Satisfactory
Total Evaluated Price	\$1,832,165	\$1,383,494

Id. at 11.

Sparkle received a past performance rating of excellent. Id. at 14. Sparkle’s total evaluated price was approximately 1.2 percent above the government cost estimate. Id. at 14-15. Richen, on the other hand, received the lowest past performance rating among qualified offerors of satisfactory. Id. at 15. Richen’s total evaluated price was 23.6 percent less than the government cost estimate. Id. at 11.

Ultimately, the source selection authority (SSA) concluded that, although Richen’s proposal was lower priced, Sparkle’s past performance was “significantly better” and thus offered the best value to the government. Id. at 16. Based on this evaluation, GSA awarded the contract to Sparkle on August 1, 2019, and notified Richen of the award decision that same day. Protest at 7. After requesting and receiving a debriefing, Richen filed this protest with our Office. Id. at 8-10.

DISCUSSION

Richen challenges the agency's best-value tradeoff analysis, arguing that the agency failed to justify its decision to select a higher-rated, higher-priced proposal as the best value to the government. For the reasons discussed below, we find no basis to sustain the protest.

When, as here, the RFP provides for a best-value tradeoff, the source selection official retains discretion to select a higher-priced, but technically higher-rated submission, if doing so is in the government's best interest and is consistent with the solicitation's stated evaluation and source selection scheme. All Point Logistics, Inc., B-407273.53, June 10, 2014, 2014 CPD ¶ 174 at 13-14. The source selection official has broad discretion in determining the manner and extent to which he/she will make use of technical, past performance, and cost/price evaluation results, and this judgment is governed only by the tests of rationality and consistency with the stated evaluation criteria. Id. A protester's disagreement with the agency's determinations as to the relative merits of competing proposals, or disagreement with its judgment as to which proposal offers the best value to the agency, does not establish that the source selection decision was unreasonable. General Dynamics-Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 8.

Here, the record reflects that the SSA considered the respective merits of the proposals in accordance with the RFP criteria, and concluded that Sparkle's more favorable past performance rating was worth paying a higher price. AR, Tab A, SSD/PNM at 14-16. As discussed above, the solicitation provided that GSA would conduct a tradeoff between past performance and price, and that past performance was "significantly more important than price." RFP § M.1.

The SSA noted that Sparkle had been assigned a past performance rating of excellent based on two reference ratings of excellent and one of very good. AR, Tab A, SSD/PNM at 14-15. The SSA further noted that "all three of [Sparkle's] references spoke highly of [Sparkle's] performance both onsite and the support from the corporate office." Id. at 14. The SSA also observed that "a review of Sparkle's information in [the Contractor Performance Assessment Reporting System] CPARS showed a consistent theme of highly successful performance." Id. In addition, the SSA pointed to examples from Sparkle's references detailing their positive experiences with Sparkle, such as a statement that Sparkle performed its work "in a timely manner and according to schedule" and that "based on Sparkle's performance, [another assessing official] would consider them for award of similar requirements in the future." Id.

In contrast, the SSA explained that Richen's past performance rating of satisfactory was based on the submission of two reference ratings of satisfactory, one of very good, and an unsatisfactory CPARS rating on a contract that was ultimately terminated for cause. Id. at 8, 15. The SSA also noted that Richen's rating of satisfactory was the lowest rating received among all qualified offerors and expressed concerns about Richen's ability to perform the work required under the contract given the termination for cause at

a similar facility. Id. at 15. The SSA concluded that “[w]hile Sparkle is not the lowest priced offeror,” its proposed price is deemed fair and reasonable, and its “[p]ast performance is significantly better than [Richen’s]” and “merits paying a higher [price] and represents the best value to the Government.” Id. at 16.

Although Richen argues that its price was low enough to outweigh the negative implications of its past performance, such disagreement with the evaluation is insufficient to render the evaluation improper or unreasonable. General Dynamics-Ordnance & Tactical Sys., supra. GSA analyzed both Richen and Sparkle’s price and past performance, and ultimately determined that it was willing to pay a higher price for a higher-rated past performance. Based on this record, we find no basis to sustain the protest.¹

The protest is denied.

Thomas H. Armstrong
General Counsel

¹ Although we do not address every argument raised by the protester, we have considered each and find that none provides a basis to sustain the protest. For example, the protester asserts in its comments responding to the agency report that the protester’s negative CPARS rating was not mentioned during Richen’s debriefing. Comments at 1-2. The protester conjectures that the agency provided Richen’s unsatisfactory CPARS rating in response to the protest as a post-hoc justification for Richen’s past performance evaluation. Id. We, however, find no merit to the protester’s argument. As discussed above, the record reflects that the SSA considered the negative CPARS rating as part of the contemporaneous evaluation.