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DECISION

Matter of: SOC LLC

File: B-418027; B-418027.2

Date: December 30, 2019

Paul F. Khoury, Esq., Jon W. Burd, Esq., and Moshe B. Broder, Esq., Wiley Rein LLP, for the protester.

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Kathleen D. Martin, Esq., Department of State, for the agency.

Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of proposals and source selection decision is denied where record shows that agency's evaluation was reasonable and consistent with the terms of the solicitation, and that the selection decision also was both consistent with the terms of the solicitation and rational.

DECISION

SOC LLC, of Chantilly, Virginia, protests the issuance of a task order to Janus Global Operations, LLC, of Lenoir City, Tennessee, under request for proposals (RFP) No. 19AQMM19R0112, issued by the Department of State for protective guard services, static guard services, and specialized security services to be provided at the U.S. Mission Somalia. SOC argues that the agency miscalculated proposals and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The RFP contemplates the issuance, on a best-value tradeoff basis, of a hybrid fixed-price, cost-reimbursement type task order for a base year and four 1-year options to provide security-related services at designated locations in support of the U.S. Mission

Somalia.¹ Award would be made considering cost/price and several non-cost/price considerations. The non-cost/price considerations were technical approach, management strategy,² and past performance relevancy (all deemed equal in importance), and past performance confidence (deemed less important than the other three evaluation factors together, but more important than cost/price).³ RFP, attach. H, Evaluation Factors, at 1. The technical approach, management strategy and past performance relevancy factors were significantly more important than cost/price. Id.

Cost/price would be evaluated considering the reasonableness of each of the fixed-price and cost reimbursement contract line items, and the agency would consider the reasonableness of the total of the fixed-price contract line items. RFP, attach. H, Evaluation Factors, at 6. In addition, offerors were advised that the total of the fixed-price contract line items would be used in the agency's best-value tradeoff decision. Id.

The agency received a number of proposals in response to the RFP and, after performing an evaluation, made the following findings in connection with the proposals of SOC and Janus:

	Technical Approach	Management Strategy	Past Perf. Relevancy	Past Perf. Confidence	Evaluated Fixed-Price
SOC	Outstanding	Outstanding	Very Relevant	Substantial Confidence	\$64,765,570
Janus	Good	Acceptable	Very Relevant	Satisfactory Confidence	\$56,421,777 ⁴

¹ The solicitation contemplates the issuance of a task order to the successful offeror under the firm's worldwide protective services (WPS) II indefinite-delivery, indefinite-quantity (IDIQ) contract. Competition was confined to firms previously awarded an underlying WPS II IDIQ contract pursuant to the agency's WPS contracting program.

² The technical approach and management strategy factors each had several enumerated subfactors that are not relevant to the discussion below.

³ The agency would assign adjectival ratings to the proposals of outstanding, good, acceptable, marginal or unacceptable under the technical approach and management strategy factors (each adjectival rating also had an accompanying "risk level" associated with its definition; for example, an outstanding rating was defined as presenting a low risk of unsuccessful performance). RFP, attach. H, Evaluation Factors, at 2-3. The firms' past performance examples would be assigned adjectival ratings under the past performance relevancy factor of very relevant, relevant, somewhat relevant or not relevant. Id. at 5. Firms' past performance examples would be assigned adjectival ratings under the past performance confidence factor of substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. Id.

⁴ The amount of Janus's evaluated price for source selection purposes was approximately \$56.4 million. Because there were cost-reimbursement contract line

Agency Report (AR), exh. 9, Source Selection Decision Document (SSDD) at 2. Based on these evaluation results, the agency issued a task order to Janus on the basis of initial offers, concluding that its proposal represented the best value to the government. After learning of the agency's selection decision and requesting and receiving a debriefing, SOC filed the instant protest.

DISCUSSION

SOC argues that there are two reasons that the Janus proposal should have been eliminated from consideration for award. First, SOC argues that the Janus proposal did not satisfy a solicitation requirement relating to a limitation on the amount of travel time allowed between the lodging facility proposed by Janus and the location where services are to be provided at Mogadishu International Airport. Second, SOC argues that the Janus proposal failed to comply with the solicitation's key personnel "backfill" requirement. In addition to these challenges, SOC argues that the agency's source selection decision was unreasonable and not consistent with the terms of the RFP. We have reviewed all of SOC's allegations and find that none have merit. We discuss our findings below.⁵

Acceptability of the Janus Proposal

SOC argues that the agency should have eliminated the Janus proposal for either of two reasons. In reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, and applicable statutes and regulations. Ausley Associates, Inc., B-417509, et al., July 24, 2019, 2019 CPD ¶ 279 at 3. Based on our review of the record here, we have no basis to object to the agency's evaluation of the Janus proposal for the reasons advanced by SOC.

items not included in the evaluated price used for source selection purposes, the evaluated price does not reflect the total cost/price for each proposal. The total value of the task order awarded to Janus was approximately \$81.6 million, while the total value of the proposal submitted by SOC was approximately \$112.3 million. AR, exh.9, SSDD, at 2. Because the value of the awarded task order exceeds \$10 million, our Office has jurisdiction to consider the protest. 41 U.S.C. § 4106(f)(2)(B).

⁵ In its initial protest, SOC also argued that the agency miscalculated both proposals in various other areas. SOC withdrew all of its allegations except those discussed below after reviewing the agency report. SOC Comments and Supp. Protest at 3 n.3.

Travel Time for Janus's Personnel

The RFP contemplates that the successful contractor will have personnel stationed at Mogadishu International Airport (MIA) staying in a living facility that is no more than 15 minutes travel time away from what is referred to as the International Campus, where the agency's mission personnel are stationed. RFP amend. no 0003, Performance Work Statement (PWS), section 6.1.16. The record shows that in responding to this requirement, Janus offered to provide facilities at the SKA Home Lodge compound located within the larger MIA compound, which Janus represented was within a 10-minute drive to the International Campus. AR, exh. 4, Janus Technical Proposal, at 38.

SOC, the incumbent contractor for this requirement, argues that it is not possible to travel from the SKA Home Lodge compound to the International Campus within 15 minutes because Janus's claimed travel time does not take into account the fact that there are three checkpoints, as well as a congested commercial gate, along the only route available between the two points that effectively prevents personnel from dependably traveling the route within 15 minutes. SOC speculates that Janus relied on the travel time calculated by Google Maps for traveling the route, but that any calculation made by Google Maps does not take into account the delays identified by SOC.

We find no merit to this aspect of SOC's protest. SOC has not produced any objective evidence (for example, affidavits from SOC personnel familiar with the conditions at MIA, or any other arguably empirical evidence demonstrating the travel time between the two points) in support of its position. The only information provided by SOC in support of its assertion are two "Google Earth" satellite images with a route traced on the images that purports to identify the checkpoints and the commercial gate, but even these images do not include any representation about the potential travel time between the two locations in question. In addition, SOC has not explained the basis for--or produced evidence to support--its claim that the travel time projections available from Google Maps are necessarily inaccurate, or do not account for the delays SOC claims to exist.

In contrast, Janus has produced a Google Maps image that shows, contrary to SOC's claim, that, in fact, there are two different routes between the points in question.⁶ Janus Supp. Comments at 7. One of those routes travels within the MIA compound and is shown as requiring 9 minutes of travel time. Id. A second route also is identified that exits and reenters the MIA compound and is shown as requiring 14 minutes of travel time. Because this second route leaves and reenters the MIA compound, the existence of the check points and commercial gate appear immaterial for purposes of calculating the travel time between the two locations using the second route.

⁶ SOC's comments and supplemental protest also includes a Google Maps image that outlines not one, but two routes between the SKA Home Lodge compound and the International Campus. SOC Comments and Supp. Protest at 13.

On this record, and especially in view of the complete lack of any evidence from SOC in support of its claim, we have no basis to object to the agency's evaluation of the Janus proposal for the reason identified by SOC. We therefore deny this aspect of its protest.

Key Personnel "Backfill" Requirement

The RFP required offerors to provide resumes and letters of commitment for a number of key personnel. The RFP instructions relating to proposing key personnel prohibited offerors from proposing key personnel that currently are working on other WPS task orders unless the offeror also included with its proposal a mitigation plan showing how the key personnel taken from another WPS task order would be replaced with a qualified candidate. AR, exh. 2a, RFP Instructions to Offerors, at 9.

SOC argues that Janus offered a number of key personnel from other WPS task orders, but did not provide a plan to "backfill" the individuals being moved from the other task orders to the solicited requirement. SOC points out that at least some of Janus's proposed key personnel are from task orders where the individual in question works for a contractor other than Janus, and that Janus has no control over whether the third-party contractor will be willing to accept its proposed replacement candidate.

We find no merit to this aspect of SOC's protest. The RFP did not require that a firm's plan to replace or "backfill" personnel take any particular form, nor did it require firms to identify by name the individuals that would be replacing key personnel taken from other task orders. Here, the record shows that Janus's proposal did include a mitigation plan to replace key personnel being proposed from other task orders; that mitigation plan specifically took into consideration the fact that some of its proposed key personnel would be coming from other WPS task orders, and also took into consideration the fact that some of those task orders were being performed by a third-party WPS contractor. Janus's mitigation plan provided as follows:

Janus proposed mitigation plan for those proposed Key Personnel that are currently working on a WPS I or II task order is as follows:

1. Upon approval of DOS/OPO/WPS [Department of State/Overseas Protective Operations/Worldwide Protective Services] key personnel, Janus [deleted] for consideration in replacing the vacated position.
2. Janus [deleted] DS/OPO/WPS optimize the transition timeline from the incumbent task order to Janus' task order
3. Upon award Janus proposes alternate Key Personnel to replace any keys currently serving on WPS and WPS II Task Order/s, allowing DS/OPO/WPS to choose alternates as needed to avoid disruptions.

AR, exh. 4, Janus Technical Proposal, at 75 (emphasis supplied).

The record therefore shows that Janus included a mitigation plan that specifically addressed the concern raised by SOC, namely, a situation where the key personnel proposed by Janus are working for a third-party WPS contractor. Nothing in the RFP required offerors to demonstrate beyond any doubt that a third-party contractor would accept a candidate offered by Janus to replace an individual moving to the currently-solicited requirement, and there is nothing inherently unreasonable in the agency's acceptance of the Janus mitigation plan in light of the requirements of the RFP, especially since that mitigation plan specifically contemplated actively working with any third-party contractors to address vacancies created on other WPS task orders. We therefore deny this aspect of SOC's protest.⁷

Source Selection Decision

SOC takes issue with the agency's source selection decision. According to the protester, because the RFP gave more weight to the non-cost/price factors, and because its proposal was found technically superior to the Janus proposal under all of the non-cost/price factors, it was unreasonable for the agency to have selected the Janus proposal. SOC also challenges the contents of the source selection decision, maintaining that, although a cost/technical tradeoff was possible, the source selection authority failed to explain adequately why the technical superiority of the SOC proposal was not worth the cost/price premium associated with selection of that proposal.

We find no merit to this aspect of SOC's protest. Agencies are afforded broad discretion in performing cost/technical tradeoffs in a best-value setting. Even where price is the least important evaluation consideration, an agency may nonetheless select a lower-priced, lower-rated proposal where the agency concludes that the price premium associated with selecting a higher-rated proposal is not justified in light of the comparative merit of another proposal offered at a lower price. Centerra Group, LLC, B-414800, B-414800.2, Sept. 21, 2017, 2017 CPD ¶ 307 at 14. The extent of such tradeoffs is governed only by the test of rationality and consistency with the solicitation's evaluation scheme, and a protester's disagreement with the agency's selection decision, without more, does not establish that the agency's source selection was unreasonable. Id.

Here, the agency's selection decision is embodied principally in three documents, an award recommendation made by the chairman of the technical and past performance evaluation team, a second award recommendation made by the contracting officer, and the SSDD itself executed by the source selection authority (SSA).

⁷ Given the multiple-award nature of the WPS contract program, along with the fact that there are numerous ongoing task orders being performed throughout the world by various WPS contractors, it is not surprising that this set of circumstances might occur. SOC has not shown that the RFP required offerors to provide more than a reasonable mitigation plan to address this possibility, and the agency concluded that Janus provided such a plan.

SOC prefers the findings of the first document, the award recommendation prepared by the chairman of the technical and past performance evaluation team, because it recommends award to SOC. AR, exh. 7 Chairman's Award Recommendation. However, that document was prepared without the benefit of having considered the firms' cost/price proposals, and thus does not constitute a cost/technical tradeoff at all. Rather, that document reflects only a recommendation to issue the task order to the firm that was determined to be the highest rated under the non-price factors without any consideration of the cost to the government.

The second document is an award recommendation prepared by the contracting officer after a review of both the cost/price proposals and the technical proposals. In that document, the contracting officer recommended award to Janus after he determined that the strengths offered in the SOC proposal were not worth the cost premium associated with award to that firm. Of significance, the contracting officer's recommendation recognized the relative importance of the non-cost factors compared to cost/price, but nonetheless concluded that the Janus proposal offered strengths that were of benefit to the government, and that the cost/price premium associated with award to SOC was not warranted. AR, exh. 8, Contracting Officer's Recommendation, at 19-20.

Finally, the record includes the SSDD, which reflects the fact that the SSA reviewed the two recommendations noted above, along with other materials (in particular, the final technical and past performance evaluation report and the final price evaluation report) prepared in connection with the agency's evaluation of proposals. The SSDD recites in detail all of the evaluation findings of both strengths and weaknesses assigned to the SOC and Janus proposal under each of the non-cost/price evaluation factors. AR, exh. 9, SSDD, at 9-16.

Following this recitation of the strengths and weaknesses assigned to the proposals under each factor, the SSA makes a determination of the comparative value of the proposals under each of the non-cost/price factors. For example, under the technical approach factor (factor one), after discussing the detailed findings of the evaluators, the SSA concludes as follows:

Both offerors offer multiple strengths and few if any weaknesses under factor one. I do not find the adjectival ratings dispositive and have focused on the merits of each under Factor One. While I do believe SOC's proposal is slightly more advantageous, I do not think it warrants the payment of a premium of \$8 million–13%.

AR, exh. 9, SSDD, at 13. The SSA made a similar finding in connection with each of the evaluation factors. Id. at 15, 16. She then concludes her award determination as follows:

Both offerors provide additional benefits to the government through their proposed technical and management approaches, and although different, have similar strengths in staffing and management approaches, [although]

that does not make the two proposals equal. While SOC's proposal indicates an outstanding approach and understanding of the requirements and is technically superior with a low risk of unsuccessful performance, Janus' proposed technical and management approach is thorough, meets the Government's requirements and also has a low to moderate risk of unsuccessful performance which in my opinion, is a very good technical solution to the U.S. Government.

AR, exh. 9, SSDD, at 17.

SOC has not demonstrated that any of the agency's underlying evaluation findings are unreasonable or incorrect. Rather, SOC essentially argues that the SSDD does not expressly weigh or compare in detail each of the different strengths and weaknesses identified in the offerors' respective proposals in reaching a selection decision. SOC also suggests that the SSDD did not make express findings as to the monetary value of each element associated with SOC's technical superiority. However, such granular detail is not required in light of the record here.

The SSA expressly recognized the comparative weighting of the evaluation factors under the terms of the RFP (recognizing that non-cost/price considerations were significantly more important overall); identified and discussed in detail the evaluators' findings with respect to the comparative merits of the two proposals, and differentiated among the proposals on a factor-by-factor basis; recognized the magnitude of the cost/price difference between the proposals; carefully considered the two different selection recommendations made by the chairman of the technical and past performance evaluation team on the one hand, and the contracting officer on the other; and made a selection decision that withstands logical scrutiny and is consistent with the terms of the RFP. In light of these considerations, SOC's protest amounts to no more than disagreement with the conclusions of the SSA. Such disagreement, without more, does not provide our Office with a basis to object to the agency's source selection decision.

The protest is denied.

Thomas H. Armstrong
General Counsel