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Decision

Matter of: C&T Technologies

File: B-418313

Date: March 2, 2020

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DIGEST

Protest that the agency failed to properly evaluate the awardee's price proposal in accordance with the terms of the solicitation is denied where the record shows that the evaluation was reasonable and in accordance with the stated evaluation criteria.

DECISION

C&T Technologies, a small business of Washington, District of Columbia, protests the issuance of a task order to Ideation Solutions JV, LLC, a small business of Fairfax, Virginia, under request for proposals (RFP) No. 12314420R0002, issued by the U.S. Department of Agriculture (USDA) for information technology (IT) end user support services. C&T argues that the agency's evaluation of Ideation's price proposal was flawed.

We deny the protest.

BACKGROUND

The RFP, issued on September 27, 2019, pursuant to Federal Acquisition Regulation (FAR) subpart 16.5, sought proposals from participants in the Small Business Administration's 8(a) Business Development Program who are holders of the National Institute of Health's Chief Information Officer (CIO) Solution and Partners Version 3 Small Business governmentwide acquisition contract. Agency Report (AR), Tab 3, RFP

at 1; Tab 13, Contracting Officer's Statement (COS), at 2.¹ In general terms, the RFP called for the provision of comprehensive on-site IT end-user support services to offices located within the National Capital Region, including offices in Washington, DC, Maryland, and Virginia that are supported by the agency's Office of the CIO, Client Experience Center (CEC). RFP at 6.

The solicitation was structured into two phases. The first phase required interested offerors to respond with a single-page affirmative response to "opt-in" in order to be eligible to submit a proposal in response to the second phase. Id. at 2. The second phase called for the submission of proposals in three volumes: prior experience, past performance and price. Id. at 5.

The RFP anticipated evaluation of proposals using prior experience, past performance and price.² Id. at 123-124. While the prior experience and past performance factors were to be individually evaluated, a single, overall "performance confidence" rating was to be assessed, and used in the performance-price tradeoff.³ Id. at 124. Prior experience and past performance were more important than price. Id. Under the price factor, the government was to evaluate total price, inclusive of contract fee and options. Id. at 127.

Eleven proposals were received in response to the second phase of the solicitation, including those from C&T and Ideation. AR, Tab 5, EDR, at 1. After an evaluation of

¹ Unless otherwise noted, references to page numbers throughout the decision are to the sequential numbering for each tab provided by the contracting agency in its report to our Office.

² Although firms that compete for task orders under indefinite-delivery, indefinite-quantity (IDIQ) contracts are generally referred to as "vendors" who submit "quotations" and are "issued" task orders, the record and the parties' briefing primarily use the terms "offerors," "proposals," and "award." For the sake of consistency with the record, we refer to the firms that competed here as offerors who submitted proposals for issuance of a task order.

³ Proposals were to be assigned one of the following ratings under the prior experience factor: exceptional, good, satisfactory, marginal or unsatisfactory. AR, Tab 5, Evaluation Decision Recommendation (EDR), at 5. Past performance was to be rated as exceptional, very good, satisfactory, marginal, unsatisfactory, or unknown. Id. at 14. Performance confidence was to be assessed and assigned one of the following ratings: substantial confidence, satisfactory confidence, limited confidence, no confidence or unknown confidence. Id. at 14-15.

proposals, the relevant results were as follows:

	C&T	Ideation
Performance Confidence	Substantial Confidence	Substantial Confidence
Prior Experience	Exceptional	Exceptional
Past Performance	Exceptional	Exceptional
Total Price	\$57,616,541	\$37,349,784

AR, Tab 5, EDR, at 26-27.

The evaluation team recommended issuance of the task order to Ideation as the best value to the government, based on the firm’s “impressive examples” of prior experience, “exceptional quality” of past performance, and low price. Id. at 29-30. The source selection authority (SSA) agreed with the evaluation team’s assessment of Ideation’s proposal, and determined that the awardee’s proposal represented the best value to the government. AR, Tab 6, Source Selection Decision Document (SSDD), at 5-6. After notifying C&T of the agency’s award determination, this protest followed.⁴

DISCUSSION

C&T raises various challenges focused on the agency’s evaluation of Ideation’s price proposal, and the best-value tradeoff decision. First, the protester argues that the agency performed an unreasonable evaluation of the awardee’s price proposal because, according to C&T, Ideation failed to include pricing for expected surges, as required by the terms of the solicitation. Protest at 7. C&T also argues that the agency failed to conduct a required price realism analysis to assess whether Ideation’s price proposal reflected a clear understanding of the requirements. Id. at 8-9. Finally, the protester challenges the best-value tradeoff decision as flawed, arguing that since Ideation’s proposal did not include required pricing, the agency could not have evaluated proposals on a consistent basis, and “by not recognizing the risk inherent in the awardee’s unrealistically low price, the [a]gency’s trade off analysis is incomplete and cannot stand.” Id. at 9. We have considered all the protester’s arguments and conclude none furnishes a basis on which to sustain the protest.

Surge Pricing

The protester speculates that Ideation’s low price, which was \$20 million less than C&T’s own proposed price, was due to the fact that the awardee did not include required “surge pricing” in its price proposal. Protest at 7. Specifically, the protester

⁴ This protest is within our jurisdiction to hear protests of task orders placed under civilian agency indefinite-delivery, indefinite-quantity contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

asserts that the awardee was required to account for an increase in total users from 4,000 to 11,000 by October 2020, but failed to do so. Id. Therefore, according to C&T, the agency could not have used a common basis to evaluate C&T's proposal (which did include surge pricing) with Ideation's proposal (which did not include surge pricing).⁵ Id. at 7.

The manner and depth of an agency's price analysis is a matter within the sound exercise of the agency's discretion, and we will not disturb such an analysis unless it lacks a reasonable basis. Gentex Corp.-Western Operations, B-291793 et al., Mar 25, 2003, 2003 CPD ¶ 66 at 27-28. In reviewing a protest against the propriety of an evaluation, we will review an evaluation to ensure that it was reasonable and consistent with the evaluation criteria in the solicitation and applicable procurement statutes and regulations. Decisive Analytics Corp., B-410950.2, B-410950.3, June 22, 2015, 2015 CPD ¶ 187 at 11.

The agency responds that Ideation's did, in fact, incorporate surge pricing into its price proposal. See Memorandum of Law (MOL) at 8. In this regard, the agency points to Ideation's price proposal where it states, in relevant part, "Ideation used 11,000 users as the base number of users to be supported on this effort. Based on our industry experience, we average 183 users to 1 support technician. Using this ratio we priced for a base number of IT Support Technicians of [DELETED] FTEs [full-time equivalent] to support 11,000 users." Id. citing AR, Tab 4, Ideation Price Proposal, at 5. Consistent with the agency's position, our review of the record shows that Ideation did include pricing for additional users, as required by the terms of the solicitation. As the record does not support the protester's contention, this protest allegation is denied.

C&T additionally argues in its comments on the agency report that, while Ideation's proposal "makes it appear that the company accounted for the surge," a meaningful review demonstrates that it did not. Protester's Comments at 2. In this regard, the protester argues that the awardee's proposal to use [DELETED] FTEs to support 11,000 users "does not actually account for the surge in end users." Id. The protester points out that the agency currently requires 70 FTE to support 4,000 users, and that C&T, itself, proposed [DELETED] FTEs to account for the surge requirement. Id. According to C&T, Ideation's proposal of [DELETED] FTEs to support the number of users required by the solicitation "is unreasonable and does not actually account for the additional users above the current level of effort." Id.

Although C&T disagrees with the merits of Ideation's proposal and the reasonableness of the agency's evaluation, therewith, the awardee's proposal, on its face, shows that

⁵ In support of its argument, the protester cites to the offeror's questions and answers (Q&A) that were published as part of the solicitation. See RFP at 68-72. Specifically, Q&A No. 34 indicated that, after consolidation of end user support services (tentatively scheduled for October 2020) the CEC anticipates approximately 11,000 total customers. Id. at 69. Q&A No. 79 instructed offerors to provide a price for the additional anticipated users in their price proposals. Id. at 72.

Ideation accounted for the number of users required by the solicitation in its proposed price. Thus, the record does not support C&T's contention in this regard. Instead, the protester's argument is more related to the firm's argument challenging Ideation's understanding of the requirements, which we address next.

Price Realism

C&T next argues that the solicitation required the agency to conduct a price realism analysis. Protest at 8-9; Protester's Comments at 3-4. The protester asserts that since Ideation "did not price for the surge, then the [a]gency should have found that it lacked a clear understanding of the Solicitations' requirements." Protest at 9. Moreover, C&T argues that the awardee's proposed pricing "is egregiously low and [Ideation] cannot sustain the USDA's requirements." Id. The protester concludes that Ideation's proposed price "will result in a nearly a third reduction in salaries or resources, either of which would result in impossible performance." Id.

The agency responds that the solicitation did not require it to conduct a price realism review. MOL at 8-9. Moreover, the agency asserts that it properly evaluated Ideation's price proposal in accordance with the terms of the RFP, including whether the firm's proposal was "reasonable for the work to be performed, reflect[s] a clear understanding of the requirements, and [is] consistent with the quote." Id. at 9. In support of its position, the agency points to the SSA's analysis, where she considered whether Ideation's price reflected a clear understanding of the requirements, and concluded that it did. Id. citing AR, Tab 6, SSDD, at 4-5.

Where a solicitation contemplates the award of a fixed-price contract, an agency may provide in the solicitation for the use of a price realism analysis for the purpose of measuring an offeror's understanding of the requirements or to assess price risk in its proposal. IBM Corp., B-299504, B-299504.2, June 4, 2007, 2008 CPD ¶ 64 at 10-11. In this regard, price realism may consider whether an offeror's fixed price is so low that it reflects a lack of understanding of solicitation requirements, or whether an offeror's low price creates a risk that the firm cannot perform its proposed technical solution at the price offered. Hewlett Packard Enter. Co.--Costs, B-413444.3, Mar. 3, 2017, 2017 CPD ¶ 85 at 5; Emergint Techs., Inc., B-407006, Oct. 18, 2012, 2012 CPD ¶ 295 at 5-6.

The price evaluation factor instructed offerors of the following:

Offerors are expected to establish a reasonable price relationship between all price elements. An evaluation of the Offerors' price quotes will be made to determine if they are reasonable for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the quote.

RFP at 127. The RFP did not expressly notify offerors that a price realism analysis would be conducted; that is, the term "price realism" is not found in the solicitation. See generally RFP.

As our decisions have stated, in the absence of an express price realism provision, we will only conclude that a solicitation contemplates a price realism evaluation where the solicitation expressly states that the agency will review prices to determine whether they are so low that they reflect a lack of technical understanding, and states that a proposal can be rejected for offering low prices. DynCorp Int'l LLC, B-407762.3, June 7, 2013, 2013 CPD ¶ 160 at 9. Absent such a solicitation provision, agencies are neither required nor permitted to evaluate price realism in awarding a fixed-price contract. Id.

In support of its argument, C&T first points to the instructions to offerors for the price volume, which states that “the services priced in the price volume must be consistent with the services that are described in other volumes of the proposal.” Protest at 8 (citing RFP at 123). According to the protester, the solicitation suggests that any unexplained inconsistencies with an offeror’s price and its other proposal volumes could cause the agency to reject an offeror’s proposal. Protester’s Comments at 4. We disagree.

Our review of the solicitation shows that this provision requires offerors to discuss services consistently across proposal volumes, and does not require offerors to explain inconsistencies between proposed prices and other proposal volumes, as the protester alleges. In a plain reading of the RFP provision, the term “services” is the subject of the sentence that is connected to the verb phrase “must be.” The term “priced” only modifies the term “services” and is not acted upon by the verb phrase. Thus, the consequential aspect of the price volume that must be consistent is the services, and not the price of the services. RFP at 123.

Moreover, the provision cannot reasonably be read to establish an evaluation requirement for price realism, as it only instructs offerors to ensure consistency of services across proposal volumes. Such an interpretation is in harmony with the placement of this provision within the instructions section of the solicitation, as instructions to offerors generally provide guidance to assist offerors in preparing and organizing proposals, rather than establishing minimum evaluation standards. See Coastal Def., Inc., B-413890, Dec. 19, 2016, 2016 CPD ¶ 371 at 7. We conclude that this instruction does not support C&T’s argument that a price realism evaluation was required by the terms of the solicitation.

The protester next argues that the solicitation required an evaluation of price realism because it “obligated the [a]gency to evaluate offerors’ proposed pricing for an understanding of the task order requirements and consistency with the offeror’s overall approach.” Protester’s Comments at 4. However, while the price factor does, by its terms, require some consideration of price as it relates to understanding of the requirements, it does not inform offerors that a proposal can be rejected for offering low prices; which is a requirement for a price realism evaluation. DynCorp Int'l LLC, supra, at 9; MacAulay-Brown, Inc., B-417205 et al., Mar. 27, 2019, 2019 CPD ¶ 129 at 4.

Our review of the solicitation shows that offerors were informed that proposals might be rejected only under limited circumstances. In this regard, the RFP informed offerors that a proposal “may be eliminated from further consideration before a detailed evaluation is performed if the proposal is considered so grossly and obviously deficient as to be totally unacceptable on its face.” RFP at 125. The solicitation also states that “[f]ailure to include in your proposal all required volumes and parts may result in rejection of the Offeror’s proposal.” *Id.* Finally, the RFP provides that “offers that do not include prices for the options may be rejected and may not be considered further for award.” RFP at 127 (emphasis added).

None of these provisions, however, inform offerors that their proposal may be rejected for offering low prices. As such, we do not find that a price realism analysis was required by this solicitation. See IBM U.S. Federal; Presidio Networked Solutions, Inc., B-409806 et al., Aug. 15, 2014, 2014 CPD ¶ 241 at 16-17 (finding solicitation did not contemplate price realism analysis where solicitation did not advise that quotations could be rejected on the basis of low prices); see also The First Choice, LLC, B-417196 et al., March 25, 2019, 2019 CPD ¶ 158, at 11-12 (denying protest that agency improperly evaluated for price realism where solicitation advised price would be used to assess understanding and agency assigned proposal risk, in accordance with terms of solicitation). As a result, C&T’s price realism challenges in this regard are denied.

Price Evaluation

Finally, C&T challenges the agency’s price evaluation, arguing that the agency “conducted no analysis whatsoever of [Ideation’s] proposed approach relative to the contract requirements.” Protester’s Comments at 6. Our review of the solicitation, however, shows that the assessment C&T argues was required (*i.e.*, an analysis of Ideation’s approach relative to the contract requirements) was not, in fact, required by the terms of the solicitation.

Here, the solicitation only required contract line item-level pricing, and called for an evaluation of the total proposed price. Under the price volume, offerors were required to submit a summary price schedule (*i.e.*, top-line prices for each option period) and a completed pricing attachment to reflect the proposed prices for various items within each option period. RFP at 123, 128-129. Given the fact that the solicitation did not require the submission of more detailed pricing information, a price analysis beyond what was conducted by the agency would likely not have been practicable.⁶ Moreover, the RFP did not require offerors to propose an approach; it only required offers to

⁶ The solicitation did not require the submission of any pricing details (such as cost and pricing data) beyond what was required in the pricing attachment provided by the RFP. With respect to the pricing attachment, in addition to a transition period in the base year, each contract period (base and four option years) included seven contract line item numbers (CLIN) consisting of three fixed-price CLINs, two labor hours CLINs, one cost CLIN for travel, and a contract access fee. *Id.* at 129. Offerors also were required to submit pricing for each CLIN. *Id.* at 118-119.

submit (and the agency to evaluate) prior experience, past performance and price. Id. at 5, 13-127.

The record shows that the agency conducted the price analysis required by the terms of the solicitation, including evaluation of Ideation's understanding of the requirements. In this regard, the SSA considered the \$11 million difference between the independent government cost estimate (IGCE) and the awardee's proposed price, and observed that the difference "could potentially indicate that the vendor did not properly understand the requirements." AR, Tab 6, SSDD, at 4. In reflecting on the development of the IGCE, however, the SSA did note that the IGCE had been based on historical prices, which were not obtained under a competitive environment.⁷ The SSA also observed that prior contracts were "[l]abor [h]our heavy[,] which provides the Government with very little cost control and can also contribute to price increase creep." Id. Ultimately, in documenting her award decision, the SSA concluded that her tradeoff analysis "rebut[ted] any arguments about the selected vendor not appropriately understanding or pricing the effort." Id. at 5.

While C&T disputes the adequacy of the SSA's analysis, we are provided no basis to object to the agency's evaluation. Protester's Comments at 4-6. As stated above, the manner and depth of an agency's price analysis is a matter within the sound exercise of the agency's discretion, and we will not disturb such an analysis unless it lacks a reasonable basis. Gentex Corp.-Western Operations, supra. The SSA's evaluation of Ideation's price, including its understanding of the requirements was reasonable given the proposal submission requirements, and the stated evaluation criteria.

Finally, C&T challenges the agency's best-value tradeoff decision based on the alleged evaluation errors addressed in this decision. See Protester's Comments at 8-9. However, as we have resolved all of C&T's challenges to the agency's evaluation of Ideation's proposal and find none have merit, we are provided no basis to question the reasonableness of the agency's best-value tradeoff decision.⁸ NJVC, LLC, B-410035, B-410035.2, Oct. 15, 2014, 2014 CPD ¶ 307 at 10 (denying challenge to the best-value tradeoff determination when alleged errors were found to be without merit).

The protest is denied.

⁷ In this regard, the SSA explained that the requirement had previously been met through direct awards to Alaskan Native Corporations or Tribally-owned vendors, without any price competition. AR, Tab 6, SSDD, at 4.

⁸ In its comments, C&T additionally argues that the agency's best-value tradeoff decision was not sufficiently documented. Protester's Comments at 9. However, our review of the record shows that the agency's decision was both reasonable, and adequately documented. As such, we deny this protest allegation. See McKean Defense Group, LLC, B-415254.2, Dec. 19, 2017, 2017 CPD ¶ 389 at 5 (denying protest where tradeoff decision was reasonable and adequately documented).

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General Counsel