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Decision

Matter of: MicroHealth, LLC

File: B-418461.6; B-418461.16

Date: February 17, 2021

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DIGEST

1. Protest challenging agency's evaluation of sample tasks using a model answer not disclosed to offerors is denied where the record shows that the evaluation was reasonable and consistent with the solicitation.

2. Protest alleging various errors in agency's evaluation of protester's proposal is denied where protester has failed to demonstrate that agency's evaluation was unreasonable or inconsistent with the solicitation.

DECISION

MicroHealth, LLC, a service-disabled veteran-owned small business (SDVOSB) of Vienna, Virginia, protests the elimination of its proposal by the Department of Veterans Affairs (VA) under request for proposals (RFP) No. 36C10B19R0046 for professional and information technology (IT) services. The protester argues that the agency unreasonably eliminated its proposal from the competitive range.

We deny the protest.

BACKGROUND

The procurement at issue is commonly referred to as the Transformation Twenty-One Total Technology Next Generation procurement (or T4NG). Contracting Officer's Statement (COS) at 1. With a program ceiling of \$22.3 billion, T4NG is a multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contract that provides professional and IT services for the Department of Veterans Affairs. Agency Report (AR), Tab 5, T4NG

On-Ramp RFP at 7. T4NG delivers contractor provided solutions in support of IT, health IT, and telecommunications, to include services and incidental hardware/software, for customer requirements that vary across the entire spectrum of existing and future technical environments. *Id.* at 12; COS at 1.

Currently, there are 28 prime vendors that hold the T4NG contract: 12 large businesses and 16 SDVOSBs. Tab 11a, Step 1 Competitive Range Determination at 1. Relevant here, the T4NG contract includes “on-ramp” procedures--*i.e.*, adding additional companies to the T4NG contract--for the purposes of SDVOSB, veteran-owned small business, and small business contractors. RFP at 77. The RFP specified that the on-ramp procedures could be implemented at any time by reopening the competition and utilizing the same terms and conditions of the T4NG contract. *Id.*

On November 12, 2019, the VA issued the T4NG on-ramp solicitation, which contemplated the award of individual task orders on a performance-based time-and-material, cost-reimbursement, and fixed-price basis for a period of approximately 5 years. *Id.* at 16. This solicitation, issued to replenish the pool of SDVOSB contractors for the T4NG contract, stated that the agency intended to award seven contracts to SDVOSBs, but reserved the right to make more or fewer awards. *Id.* at 132; COS at 1-2.

The solicitation provided that the agency would make award to the SDVOSBs whose proposals represented the best value, considering the following factors, listed in decreasing level of importance: technical, past performance, veterans employment, small business participation commitment (SBPC), and price. RFP at 133.

The technical factor was comprised of two subfactors, sample tasks and management. The sample task subfactor consisted of sample tasks 1 and 2, which were of equal importance. *Id.* Under the technical factor, the sample task subfactor was significantly more important than the management subfactor. *Id.* Overall, the technical factor was significantly more important than the past performance factor, with past performance and all subsequent factors each slightly more important than the following factor. *Id.* All non-price factors, when combined, were significantly more important than price. *Id.*

Under each technical factor and subfactor, and under the SBPC factor, proposals would receive an adjectival rating of outstanding, good, acceptable, susceptible to being made acceptable, or unacceptable.¹ AR, Tab 4, Source Selection Evaluation Plan at 23.

¹ As relevant here, the RFP defined an acceptable rating for the technical evaluation as:

A proposal that meets all of the Government’s requirements, contains at least minimal detail, demonstrates at least a minimal understanding of the problems, and is at least minimally feasible (moderate to high degree of risk).

AR, Tab 4, Source Selection Evaluation Plan at 23.

Under the past performance factor, each proposal would receive an adjectival risk assessment. *Id.* at 23-24. Pertinent to this protest, the solicitation advised that offerors were responsible for including sufficient details, in a concise manner, to permit a complete and accurate evaluation of each proposal. RFP at 122.

The solicitation established that the technical evaluation was comprised of two steps, which the solicitation termed step one and step two. *Id.* at 132. In step one, offerors were required to submit a proposal that included three parts: a response to sample task 1, a price volume, and a volume of certifications and representations. *Id.* After the evaluation of the step one submissions, the agency would establish a competitive range. *Id.* The step one evaluations of an offeror's sample task 1 and price were carried forward to the step two evaluation and would not be reevaluated. *Id.*

In step two, the agency would evaluate an offeror's response to sample task 2 and finalize the adjectival rating for the sample task subfactor. *Id.* at 133. During step two, the VA would also evaluate the management sub-factor, the technical factor, the past performance factor, the veterans employment factor, and the SBPC factor. *Id.* As to the price evaluation, the agency would conduct a price realism evaluation by examining an offeror's labor rates to assess performance risk, but would not adjust an offeror's overall price. *Id.* at 136.

Broadly, the sample task evaluation would assess the extent to which an offeror demonstrated an understanding of all facets of the problem and whether its proposed solution provided the agency with a high level of confidence in successful project completion. *Id.* at 134. Sample task 1 asked offerors to explain how they would analyze, report, prioritize, remediate, and track VA's infrastructure and IT components in anticipation of a new electronic health records (EHR) system. *Id.* at 203. Sample task 2 asked offerors for their plan to build an online form submission application. *Id.* at 209.

In evaluating the offeror's response to a sample task, the RFP stated that the agency would assess the extent that the response demonstrated its understanding of all of the features involved in solving the problems presented, and meeting the requirements, including identifying uncertainties and proposing resolutions to address those uncertainties. *Id.* The response was also evaluated for its feasibility of approach, which encompassed considering whether the offeror's methods and approach to the sample task requirements provided the agency with a high degree of confidence of successful completion. *Id.* The solicitation stated that these tasks were designed to test the offeror's expertise and innovative capabilities to respond to the types of situations that may be encountered in contract performance. *Id.* at 134. The solicitation cautioned offerors that they would not be given an opportunity to correct or revise a sample task response. *Id.*

The agency evaluated 94 step one proposals. COS at 3.² The agency established a competitive range of 33 of the highest rated proposals, including MicroHealth, and held discussions with those offerors. AR, Tab 11, T4NG On-Ramp Competitive Range Determination Memorandum at 3. Step two proposals, which included sample task 2, were requested and received from the offerors in the competitive range, including MicroHealth. *Id.* The agency assigned MicroHealth's proposal a rating of acceptable for the technical factor, based on the ratings of acceptable assigned for the sample task subfactor and the management subfactor. *Id.* at 4. The agency also assigned the proposal a rating of low risk under the past performance factor, recognized the firm's commitment that [DELETED]% of MicroHealth's workforce would include veterans under the veterans employment factor, and assessed MicroHealth's proposal a rating of outstanding under the SBPC factor. *Id.* MicroHealth's proposal included a proposed price of \$7,225,141,721. *Id.*

The Source Selection Authority (SSA) determined that MicroHealth's proposal was not among the highest-rated proposals, and eliminated it from the second competitive range. *Id.* at 6; AR, Tab 12, Unsuccessful Offeror Letter (Oct. 23, 2020). In making her decision, the SSA explained that she decided to exclude from the step 2 competitive range all proposals with a rating of acceptable under the technical factor.³ AR, Tab 11b, Step Two Competitive Range Determination at 5.

In selecting the proposals to be included in the step two competitive range, the SSA recognized that the solicitation did not permit revisions of sample task responses through discussions, and thus an offeror's rating under the sample task subfactor could not be improved. *Id.* The SSA further noted that none of the excluded proposals had issues requiring remediation under the management sub-factor. *Id.* As a result, the technical factor adjectival rating for the excluded proposals would not improve after step two competitive range discussions. *Id.*

The SSA then considered the evaluations under the less important evaluation factors and concluded that "none of these differences [in the veterans employment and SBPC factors or in price] were significant enough to outweigh the 'Good' or better ratings received for the Technical Factor, the significantly most important factor, especially considering the equal ratings for Past Performance, the second most important factor." *Id.* Finally, the SSA noted that the range of price proposals in the step two competitive range was considerably narrower than in the step one competitive range. *Id.*

The SSA also inquired whether proposals with ratings of good or outstanding under the technical factor also had low ratings under the veterans employment or SBPC factors,

² The agency received 98 step one proposals, however, three were untimely and therefore immediately eliminated, and one offeror withdrew its proposal. COS at 3 n.1.

³ All of the proposals that were eliminated also received a rating of acceptable under the sample task subfactor. *Id.*

or proposed a price so high, such that the low rating or high price would be sufficient to exclude that proposal from the competitive range. *Id.* at 6. The SSA also considered whether the proposals with a rating of acceptable under the technical factor nevertheless had strengths under the veterans employment or SBPC factors, or proposed a price so low, that this benefit would outweigh the lower rating under the technical factor, and concluded that no proposal with such a rating demonstrated such strengths. *Id.* at 5-6. The SSA concluded that none of the ratings or the relative prices provided a basis to change the competitive range. *Id.* at 6

After MicroHealth received its debriefing, this timely protest to our Office followed.

DISCUSSION

MicroHealth challenges the evaluation of its proposal under the technical factor, asserting that the agency unreasonably assigned its proposal a rating of “acceptable.” The protester also contests the sufficiency of the agency’s past performance evaluation and competitive range determination. We have fully considered all of MicroHealth’s protest grounds, and although we address only a portion of the arguments below, we find that none provide a basis to sustain the protest.

Technical Evaluation

MicroHealth argues that the agency unreasonably evaluated its proposal with respect to sample task 1, and ignored information in its proposal when evaluating sample task 2.⁴ As discussed below, we find the agency’s evaluation unobjectionable.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency’s judgment was reasonable and in accord with the solicitation’s evaluation criteria. *Gonzales Consulting Services, Inc.*, B-416676, B-416676.2, Nov. 20, 2018, 2018 CPD ¶ 396 at 7. The offeror has the burden of submitting an adequately written proposal, and it runs the risk that its proposal will be evaluated unfavorably when it fails to do so. *Hawk Institute for Space Sciences*,

⁴ In MicroHealth’s initial protest filing, it argued that the agency employed unstated evaluation criteria in assessing MicroHealth’s proposed solution to sample task 1. Protest at 21. In this regard, the protester asserted that the solicitation did not reasonably advise offerors that the agency expected prospective offerors not only to address certain focus areas, but to also address specific components of each focus area. *Id.* In its later filings, however, the protester clarified that its protest relates to the reasonableness of the agency’s evaluation of its proposal, rather than a challenge to the agency’s use of an undisclosed model answer. Comments and Supp. Protest at 14; Supp. Comments at 10 (“As explained in MicroHealth’s Comments, MicroHealth does not take issue with the evaluation scheme itself, but rather challenges the application of that scheme in evaluating MicroHealth’s proposal.”).

B-409624, June 20, 2014, 2014 CPD ¶ 200 at 3. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. *Id.*

Sample Task 1

Regarding sample task 1, the protester argues that the agency unreasonably evaluated its proposed solution by using a government developed solution made up of high-level focus areas. Protest at 21. MicroHealth maintains that the agency's undue emphasis on certain high-level focus areas resulted in an agency evaluation that was "unreasonably narrow," and failed to consider many other aspects of its proposal that also demonstrated MicroHealth's understanding of the sample task. Comments and Supp. Protest at 14.

In response, the agency first notes that under sample task 1, the solicitation asked that offerors "describe in detail your approach" to solving the sample problem to determine the "extent to which" it demonstrated a clear understanding of all of the features involved in solving the problems and meeting the requirements. RFP at 134. The agency also explains that it developed a model answer that identified high-level focus areas and lower-level focus areas intrinsic to the higher-level focus areas that it deemed necessary to meet the agency's requirements for the sample task. Memorandum of Law (MOL) at 15, COS at 18-19; AR, Tab 9, MicroHealth Technical Factor Report at 2-3. The agency also asserts that it developed the model answer to assist the evaluators in determining if offerors' responses to sample task 1 were complete. *Id.* The VA maintains that these high-level focus areas were purposefully broad so as not to limit offerors to any specific approach. *Id.* at 15.

Additionally, the agency states that offerors could demonstrate their understanding of the sample task by providing detailed, clear and pertinent information for lower-level focus areas, under a particular higher-level focus area. *Id.* at 12. With regard to the agency's assignment of an acceptable rating of MicroHealth's response to sample task 1, the agency contends that MicroHealth's response for the sample task consistently provided a minimum amount of detail across different focus areas. AR, Tab 9, MicroHealth Technical Factor Report at 8-12.

Based upon our review of the record, we conclude that the VA's evaluation of MicroHealth's proposed solution to sample task 1 was reasonable and consistent with the solicitation.

As stated above, under sample task 1, offerors were instructed to "describe in detail [their] approach to analyze, remediate, and report VA infrastructure/IT deficiencies across the organization to prepare VA facilities for the new EHR system." RFP at 203. The RFP also cautioned offerors to provide detail sufficient to permit a complete and accurate evaluation of each proposal. *Id.* at 122. Offerors were also advised that the agency would consider "the extent to which the Offeror demonstrates a clear understanding of all features involved in solving the problems and meeting the

requirements presented by the Sample Task; and the extent to which uncertainties are identified and resolutions proposed.” *Id.* at 134.

Here, the agency determined that, in numerous areas, MicroHealth’s response to sample task 1 lacked sufficient detail to warrant a rating higher than acceptable. For example, as explained above, the agency assigned MicroHealth’s proposal a weakness for not discussing in enough detail “evaluating the current broadband capability against the bandwidth requirement for the modernized EHR [electronic health record] system[.]” AR, Tab 9, MicroHealth Technical Factor Report at 10. The agency explains that, although not explicit, the Performance Work Statement (PWS) encompassed broadband components, including section 4.6 (enterprise network) and section 4.6.2.4, local area network (LAN)/wide area network (WAN) systems. COS at 20-21. The agency determined that such lack of detail in MicroHealth’s response to sample task 1 demonstrated a “minimally feasible approach” to analyze and remediate the agency’s network deficiencies which increased the risk that the VA’s network would not be robust enough to meet the end-state demands of the modernized EHR system. AR, Tab 9, MicroHealth Technical Factor Report at 10. *Id.*

While MicroHealth contends that its proposal in this regard “demonstrated at least an adequate, if not thorough, understand[ing] of Analyzing and Remediating Network Deficiencies,” and, thus, warranted a higher rating (Comments and Supp. Protest at 10-11), its arguments amount to disagreement with the agency’s judgment, which, without more, does not render the agency’s conclusions unreasonable. *Trofholz Techs., Inc.*, B-404101, Jan. 5, 2011, 2011 CPD ¶ 144 at 3-4. Given the solicitation’s warning that firms must provide sufficient detail to allow the agency to perform a complete and accurate evaluation (RFP at 122), we find that the protester has provided our Office with no basis to question the agency’s evaluation. Accordingly, this protest ground is denied.

Sample Task 2

With respect to sample task 2, MicroHealth argues that the agency unreasonably assigned its proposal a weakness associated with one of the three major deliverables, *i.e.*, the minimum viable product (MVP) documentation, due to a “disconnect” between deliverable 3.b and the narrative MicroHealth submitted for deliverable 2.d “Source Control,” where offerors were required to provide “[a] description of how [they] managed source code control while developing the WCST [widget claims submission tool].” RFP at 211; AR, Tab 9, MicroHealth Technical Factor Report at 14. The protester claims that the agency unreasonably “conflated” an aspect of MicroHealth’s general branching strategy, with its specific approach to sample task 2. Comments and Supp. Protest at 9.

The agency responds that it reasonably concluded that section 2.5 of MicroHealth’s proposal titled “2.5 Source Code Control (Deliverable 2.d)[,]” involving sample task 2 was unclear. COS at 16; AR, Tab 9, MicroHealth Technical Factor Report at 14. The agency notes that the title of the section indicates that it was related to the following requirements, as stated in sample task 2, “[a] description of how you managed source

code control while developing the WCST.” RFP at 211. Sample task 2 required offerors to provide a description of how they managed source code specific to sample task 2, not a general capability that a protester could provide on other efforts.

Additionally, the VA points out that section 2.5 of MicroHealth’s proposal begins with, “[f]or this development project, MicroHealth used our standard branching strategy.” AR Tab 7, MicroHealth Proposal, Sample Task 2 at 9. The VA maintains that there was nothing unreasonable for its assignment of a weakness to MicroHealth’s sample task 2 response due to an unclear diagram that was specifically required. COS at 17.

We find that the protester’s description of how it managed source code control while developing the WCST was not clear on its face, and thus, the agency reasonably assigned the protester a weakness under sample task 2. Under the terms of this solicitation, it is an offeror’s responsibility to clearly propose a solution to the sample task. RFP at 122. And an offeror should take particular note of such a warning, where, as here, the offeror’s response to the sample tasks could not be revised through discussions. *Id.* at 134. The protester’s post-protest explanations of its proposal regarding sample task 2 are no substitute for a clearly written proposal. While MicroHealth may disagree with the agency’s evaluation under sample task 2, we find no reason to find the assignment of a weakness to be unreasonable in this instance.

Past Performance

Next, MicroHealth argues that the agency failed to meaningfully evaluate past performance, and instead assigned all offerors the same “low risk” rating despite “substantive differences in past performance[.]” Comments and Supp. Protest at 4. The protester asserts that the past performance evaluation included “mere conclusions with no supporting rationale or meaningful assessment of risk[.]” and that because of the lack of a full picture of the advantages and disadvantages underlying each offerors’ rating, the source selection authority’s determination that all offerors’ past performance was essentially equal was unreasonable and prejudiced MicroHealth. Supp. Comments at 4.

The agency responds that rather than just considering the overall past performance ratings, the source selection authority went beyond the adjectival ratings and considered all instances, including adverse instances and weaknesses, associated with each offeror’s past performance proposal and evaluation. Supp. AR at 18; AR, Tab 10, Source Selection Authority Briefing Slides at 75-153. According to the agency, the SSA reasonably determined that the offerors’ past performance ratings were essentially equal. *Id.*

Our Office has found that where the record demonstrates that the source selection authority was aware of the relative advantages and disadvantages of each proposal, then reasonable determinations that proposals are essentially equal are well within the source selection authority’s discretion. *Lynxnet, LLC*, B-409791, B-409791.2, Aug. 4, 2014, 2014 CPD ¶ 233 at 13-14.

Here, we conclude that the agency reasonably evaluated past performance. The record demonstrates that the SSA was presented with the details of each offeror's past performance--*i.e.*, including the fact that MicroHealth's past performance contained no adverse information--prior to making her determination. Given the discretion afforded an SSA in this regard, we find the SSA's consideration of the individual aspects of each offeror's past performance to be controlling, not the fact that the source selection authority determined that the offerors had essentially equal past performance. Thus, based upon our review of the record and the parties' filings before our Office, we find no reason to question the SSA's conclusion with respect to past performance. Accordingly, we deny this protest ground.

Competitive Range Determination

Finally, MicroHealth argues that the agency applied a mechanical approach to its competitive range determination. Comments and Supp. Protest at 13. In this regard, while the protester acknowledges that the source selection authority made its determination based on a slide presentation prepared by the source selection evaluation board following its evaluation of proposals, the protester argues that this slide presentation lacked meaningful detail. Comments and Supp. Protest at 16.

In response, the agency contends that the record details a comprehensive evaluation which was fully briefed to the source selection authority, and that the SSA considered this information in making her competitive range decision. Supp. AR at 22; AR, Tab 10, Source Selection Authority Briefing Slides; Tab 11, Competitive Range Determination.

Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. *Cylab Inc.*, B-402716, July 13, 2010, 2010 CPD ¶ 163 at 4. In this regard, a protester's disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. *CMC & Maint., Inc.*, B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2.

On this record, we find no basis to conclude that the agency made a mechanical competitive range determination. First, the record reflects that the SSA was fully briefed on all aspects of the agency's evaluation of proposals for all offerors. Second, the record shows that based upon her review of the agency's evaluation, the SSA issued a detailed competitive range determination decision that discussed important discriminators between the proposals. Further, to the extent the SSA placed emphasis on an offeror's rating under the technical factor, we note the solicitation here established that, under the technical factor, the technical factor was *significantly more important* than the next most important factor. RFP at 133.

In sum, MicroHealth's disagreement with the agency's findings regarding the merits of its proposal and competitive range determination does not establish that the agency's judgments were unreasonable. *CMC & Maint., Inc.*, B-290152, June 24, 2002,

2002 CPD ¶ 107 at 2. As a result, we find no reason to question the agency's conclusion that MicroHealth's proposal was not among the most highly rated offers, and the agency's exclusion of the proposal from the competitive range on this basis.

The protest is denied.

Thomas H. Armstrong
General Counsel