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Decision

Matter of: Federal Conference.com

File: B-418465.2; B-418465.3

Date: November 16, 2020

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DIGEST

Protest that the agency unreasonably evaluated the awardee's proposal is denied where the record shows that the evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

National Conferencing, Inc. d/b/a Federal Conference.com (FedCon), of Dumfries, Virginia, protests the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to TechTrans International, Inc., of Houston, Texas, under request for proposals (RFP) No. W9124J-19-R-0003, issued by the Department of the Army for event planning and logistical support services. FedCon, the incumbent contractor, alleges that the agency unreasonably evaluated TechTrans's proposal as technically acceptable.

We deny the protest.

BACKGROUND

On August 8, 2019, the agency issued the RFP to procure event planning, coordination, and logistical support services for the Army Chaplain Corps. Agency Report (AR) Tab 15, RFP, amend. 4 at 3. The selected contractor would provide these services to support events designed to meet the religious, spiritual, and relational needs of Army soldiers and their families. RFP, amend. 4 at 3.

The solicitation contemplated two types of events, standard and specialized. RFP, amend. 4 at 14. For standard events, the selected contractor would provide a logistical support package (LSP) consisting of conference space, audio/visual support, childcare, transportation, training activity, curriculum, food, and lodging. *Id.* For specialized events, the LSP required the selected contractor to provide additional services, and to perform on-site logistical support during the event (*e.g.*, register attendees, coordinate room setup, and distribute training materials). *Id.*

The RFP contemplated the award of a fixed-price IDIQ contract to be performed over a 5-year ordering period with task orders issued annually. RFP, amend. 4 at 14. Award would be made on a lowest-price, technically acceptable basis considering technical, financial capability, past performance, and price factors. *Id.* at 50-51. The technical factor consisted of three subfactors: staffing/management approach; operational management; and, data/account management and reporting. *Id.* at 51.

Of relevance here, the solicitation instructed offerors that their staffing/management approaches should demonstrate the ability to provide a staffing and management approach for the standard LSP. RFP, amend. 4 at 45. The agency would evaluate each offeror's ability to provide a staffing/management approach satisfying all performance work statement (PWS) requirements. *Id.* at 51-52. The PWS contained a specific task list requiring the selected contractor to demonstrate ability to provide the requisite services, such as providing meeting space, audio/visual support, and transportation. *Id.* at 20-26.

The RFP advised that proposals must demonstrate five criteria to be considered acceptable under the staffing/management subfactor. RFP, amend. 4 at 52. First, the organizational chart should outline the offeror's entire business process, describe the management structure, project each event planner to manage between 150 and 220 events annually, and provide a staffing and management approach for each tier of execution. *Id.* Second, proposals should demonstrate a voluntary turnover rate of 25 percent or less. *Id.* Third, proposals should include resumes for key personnel meeting the minimum experience and certification requirements. *Id.* at 52-53. Fourth, proposals should demonstrate at least two years of experience planning 1,500 or more meetings for Department of Defense agencies or other large entities, and coordinating government requirements for childcare licensure and insurance worldwide. *Id.* at 53. Fifth, offerors should demonstrate at least two years of experience meeting the requirements of Army Directives 608-10 and 2014-103, and other applicable statutes.¹ *Id.*

¹ Army Regulation 608-10, Child Development Services, prescribes policy and procedures for establishing and operating Army Child Development Services. See Army Regulation 608-10, May 11, 2017. Army Directive 2014-23, Conduct of Screening and Background Checks for Individuals who have Regular Contact with Children in Army Programs, details policy for screening and background check requirements for

Seven offerors, including FedCon and TechTrans, submitted proposals prior to the October 15, 2019, closing date. AR, Tab 32, Competitive Range Determination at 1; Contracting Officer's Statement (COS) at 2. The agency established a competitive range consisting of FedCon, TechTrans, and one other offeror.² COS at 4. After conducting discussions and soliciting final revised proposals, the agency evaluated TechTrans's proposal as the lowest-priced, technically acceptable offer, and awarded a contract to the firm at a price of \$182,763,551. *Id.* at 4-5; AR, Tab 45, Price Negotiation Memorandum at 6; AR, Tab 46, Source Selection Decision Document at 10, 13. FedCon then filed this protest with our Office.

DISCUSSION

FedCon alleges that the agency unreasonably evaluated TechTrans's proposal as technically acceptable under the staffing/management subfactor. The firm challenges multiple aspects of TechTrans's staffing plan and management structure as violating the RFP's requirements. See Comments and Supp. Protest at 7. The firm also asserts that TechTrans failed to demonstrate the requisite childcare experience. *Id.* at 25-26. We have reviewed all of the allegations raised, and do not find that any provides us with a basis to sustain the protest. We discuss the principal allegations below, but note, at the outset that, 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, as well as applicable statutes and regulations. *SaxmanOne, LLC*, B-414748, B-414748.3, Aug. 22, 2017, 2017 CPD ¶ 264 at 3. To the extent we do not discuss any particular allegation, it is denied.³

individuals who have regular contact with children in the execution and support of Army programs and activities. Army Directive 2014-23, September 10, 2014.

² Prior to establishing a competitive range, the agency made an award to TechTrans. COS at 3. FedCon challenged that award in a protest filed with our Office. *Id.* We dismissed that protest as academic because the agency informed us that it intended to take corrective action consisting of conducting discussions, soliciting and evaluating final proposal revisions, and making a revised source selection decision. *National Conferencing, Inc. d/b/a Federal Conference.com*, B-418465, Mar. 10, 2020 (unpublished decision).

³ In its protest, FedCon also alleged that the agency unreasonably evaluated TechTrans's proposal under the operational management subfactor. Protest at 26-29. The agency responded to this allegation in its report, but the protester did not rebut the agency's position in its comments on the agency's report. Memorandum of Law (MOL) at 17-20; See *generally*, Comments and Supp. Protest. Where, as here, an agency responds to allegations in its report but the protester does not rebut the agency's position in its comments, we dismiss the allegations as abandoned because the

Staffing Plan and Management Structure

FedCon raises multiple challenges arguing that TechTrans's staffing/management approach violated the terms of the RFP, and therefore the proposal should have been evaluated as technically unacceptable. First, FedCon complains that TechTrans's proposal did not address several of the PWS requirements. Comments and Supp. Protest at 8. Second, FedCon complains that TechTrans unreasonably proposed to utilize fractional full-time equivalent (FTE) employees as key personnel. *Id.* at 13-14. Finally, FedCon complains that TechTrans's event planners would manage more than the permissible number of events per year (*i.e.*, 220), and also have additional job responsibilities. *Id.* at 17.

The agency evaluated TechTrans's staffing/management approach as acceptable. AR, Tab 30, Initial Source Selection Evaluation Board (SSEB) Report at 3; AR, Tab 44, Revised SSEB Report at 5.⁴ Relevant to this challenge, the agency noted that TechTrans's staffing/management approach was acceptable because the firm outlined its entire business process, clearly described its management structure, projected an acceptable level of event planning support, and provided adequate staffing levels. AR, Tab 30, Initial SSEB Report at 4.

FedCon's allegation that the agency unreasonably failed to evaluate whether TechTrans's proposal demonstrated the ability to satisfy each of the PWS requirements does not provide us with a basis to sustain the protest. In this regard, FedCon asserts that TechTrans's proposal did not individually address how the firm would provide each of the services comprising a standard LSP, such as providing conference space, audio/visual support, training activities, event curriculums, and lodging. Comments and Supp. Protest at 11-12. The agency responds, and our review confirms, that TechTrans proposed a complete and organized staffing/management approach demonstrating the ability to provide a standard LSP. Supp. MOL at 6.

Indeed, TechTrans's organizational chart shows how it plans to manage an event in accordance with the PWS requirements by, for example, showing that the event planners will solicit vendors, coordinate services, finalize plans, and obtain customer satisfaction surveys. AR, Tab 36, TechTrans Proposal at 30-31. TechTrans's proposal also includes a list of procedures demonstrating in more detail how the firm intends to accomplish the PWS requirements. *Id.* at 28-32. For instance, the PWS requires the selected contractor to obtain meeting space, audio/visual support, and childcare services for each event. RFP, amend. 4 at 29. TechTrans explains that prior to the

protester has not provided us with a basis to find the agency's positions unreasonable. *Medical Staffing Solutions USA*, B-415571, B-415571.2, Dec. 13, 2017, 2017 CPD ¶ 384 at 3. Thus, since FedCon did not provide us with any basis to find the agency's position to be unreasonable, we dismiss the allegation as abandoned.

⁴ The revised SSEB Report only reflects an update to an aspect of the firm's evaluation that is not at issue in the current protest. COS at 5.

event its assigned event planner will review an approved vendor list based on event location, prepare a solicitation for each required service, and negotiate with interested vendors to procure the services at the lowest price. AR, Tab 36, TechTrans Proposal at 29. Additionally, TechTrans's proposal includes a "performance management" table, which also articulates how the firm intends to meet and track compliance with each of the PWS requirements (e.g., TechTrans explains that it will [DELETED] to ensure that adequate childcare is provided at events in accordance with PWS § 5.1.1.3). *Id.* at 15-16.

Although FedCon argues that TechTrans's proposal did not explain its approach with sufficient detail because the firm did not individually explain how it would obtain each of the services comprising a standard LSP, we see no basis to conclude that the agency erred when it did not find TechTrans's proposal to be unclear on how it would obtain any of the PWS services. The firm's proposal explained that it would solicit vendors for each requisite service. AR, Tab 36, TechTrans Proposal at 29 ([DELETED]). Further, we think that separately explaining that the firm intends to solicit vendors for audio/visual services, training activities, and event curriculums would be redundant. Moreover, we note that FedCon's own approach for obtaining transportation services, communicates little more than that the firm plans to obtain these services in the same manner as TechTrans. See Supp. Comments at 21 ("When transportation services are required, we solicit at least [DELETED] [Defense Travel Management Office] approved vendors for a competitive bid."). Accordingly, we deny this protest allegation.

Next, FedCon asserts that the agency unreasonably failed to recognize that TechTrans proposed fractional FTEs to serve as the "Senior Program Manager" and the "Alternate Program Manager." Comments and Supp. Protest at 13. According to FedCon, the RFP did not permit offerors to propose fractional FTEs for these positions. *Id.* at 14. Alternatively, FedCon argues that the firm's approach will not be successful because fractional employees will be unable to fulfill all of the job responsibilities. Supp. Comments at 11-12. We disagree.

The agency explains that the RFP does not contain any term or condition preventing offerors from proposing key personnel who spend less than 100 percent of their time on this particular contract. Supp. MOL at 9. Indeed, while the RFP characterizes key personnel as "essential," it does not delineate hourly or level of commitment requirements for these positions; rather, the solicitation only requires that the staffing approach be capable of satisfying all PWS requirements. See RFP, amend. 4 at 6 (explaining that the senior program manager and alternate program manager are responsible for the performance of the work), 13 (describing key personnel as essential). Thus, we do not agree with the protester's contention that the solicitation mandated TechTrans' proposal be rated technically unacceptable because its staffing plan proposed fractional FTEs for the "Senior Program Manager" or the "Alternate Program Manager" positions.

Further, our review of the agency's evaluation shows that the agency recognized that TechTrans would utilize fractional FTEs in these roles. The record demonstrates that

the agency conducted an in-depth review and evaluation of TechTrans's proposal against all evaluation criteria. AR, Tab 30, Initial SSEB Report at 3. The agency explains that during this review the evaluators specifically considered TechTrans's proposed use of fractional FTEs, and determined that TechTrans could reasonably perform the PWS requirements with this approach.⁵ Supp. AR, Tab 3, Decl. of the SSEB Chair at 1.

In addition, we do not find persuasive FedCon's argument that the firm's use of fractional employees is unacceptable because all of the key personnel responsibilities cannot be performed on a part-time schedule. The agency responds that TechTrans proposed a unique staffing structure that provides event planners with high levels of job autonomy that decreases the burden placed on the "Senior Program Manager" and "Alternate Program Manager" positions. Supp. MOL at 12-13. For example, TechTrans's proposal shows that its staffing structure has [DELETED]. AR, Tab 36, TechTrans Technical Proposal at 3. Based on that staffing structure, the agency reasonably concluded that TechTrans would be able to perform the requirement successfully while utilizing fractional employees as key personnel. *Id.* Accordingly, we deny this allegation because the record shows that the agency fully considered this aspect of TechTrans's approach in accordance with the solicitation's terms when evaluating the firm's proposal as technically acceptable.

Finally, FedCon alleges that TechTrans's staffing/management approach was unacceptable because the firm's approach tasks its event planners with managing more than the permissible 220 events per year, and also because the firm assigns additional responsibilities to its event planners. Comments and Supp. Protest at 16. The agency counters that TechTrans's approach was consistent with the solicitation's requirements. MOL at 10.

Again, TechTrans's proposal shows that it planned to utilize fractional (or part-time) employees. AR, Tab 36, TechTrans Technical Proposal at 7-8. For example, if required to manage 1,500 events in one year, then TechTrans will provide [DELETED] FTEs comprising varying levels of full-time and part-time "event planner lead" and "event planner" personnel. *Id.* Similarly, if required to manage 4,000 events in one year, then TechTrans will provide [DELETED] FTEs. *Id.* Importantly, none of

⁵ FedCon argues that the agency official's declaration constitutes a *post-hoc* explanation which our Office should not consider. Contrary to that argument, our Office will consider post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, so long as the explanations are consistent credible and consistent with the contemporaneous record. *Computer World Servs. Corp.*, B-416042, May 22, 2018, 2018 CPD ¶ 191 at 5. Here, the statement submitted by the agency official does not provide a reevaluation or contradict the contemporaneous record, but rather provides unrecorded details about the SSEB's evaluation deliberations which are consistent with the other evaluation documents. See Supp. AR, Tab 3, Decl. of SSEB Chair at 1-2.

TechTrans's proposed projected staffing levels require individuals to manage more than 220 events per year. *Id.*

While FedCon argues that TechTrans's projections actually require "event planner" personnel to manage more than 220 events per year because the firm cannot assign its event lead personnel both first-level supervisory and line-duty responsibilities, we do not find this argument persuasive. The RFP did not restrict offerors from proposing to employ personnel in dual roles, and as a result, we think the agency reasonably evaluated TechTrans's projected staffing levels as complying with the RFP's requirements.⁶ See RFP, amend. 4 at 51-52; see also Supp. AR, Tab 3, Decl. of SSEB Chair at 1. Moreover, the agency reasonably evaluated TechTrans's strategy in this regard because requiring experienced personnel to both oversee entry-level personnel and manage an existing portfolio is a common labor strategy to improve operating efficiencies. See Supp. AR, Tab 3, Decl. of SSEB Chair at 1 ("The board unanimously agreed that the high level of experience in the Event Planner Leads [would] create significant efficiencies in event planning, allowing for time to supervise while still carrying a full load of events.").

Also, we do not find persuasive FedCon's argument that the RFP required offerors to propose only full-time event planners. As support for its argument, FedCon points out that the RFP stated that offerors may "project each full-time event planner to manage between 150 and 220 events per year. Supp. Comments at 8. Contrary to the protester's position, we do not interpret that provision as communicating the alleged restriction. See RFP, amend. 4 at 52. Rather, consistent with the agency's view, the plain language of the provision only prohibits offerors from assigning more than 220 events per year to each full-time event planner. See Supp. MOL at 17.

Additionally, FedCon argues that TechTrans's staffing/management approach unreasonably assigned multiple duties to its event planners, and therefore the agency should have concluded that the firm's personnel could not manage the assigned number of events. Comments and Supp. Protest at 23. In this regard, FedCon argues that TechTrans's proposal requires its event planners to [DELETED]. *Id.* We do not find this allegation persuasive because the RFP provided offerors with flexibility to propose unique staffing/management approaches, and did not restrict offerors from relying on its "event planner" personnel to perform important event planning functions. See RFP, amend. 4 at 20-26, 51-52. Further, the record shows that the agency fully considered TechTrans's particular staffing/management approach, the firm's projected staffing levels, and the roles and responsibilities for its "event planner" personnel as

⁶ In this regard, FedCon also argues that TechTrans's event planner leads cannot be considered as event planners for purposes of calculating the number of events per event planner because the awardee's proposal [DELETED]. Comments and Supp. Protest at 18-19. We do not find that the awardee's [DELETED] renders the agency's evaluation unreasonable; TechTrans's staffing chart explains that the [DELETED]. AR, Tab 36, TechTrans Tech. Volume at 7-8.

acceptable and complying with terms of the RFP. Supp. AR, Tab 3, Decl. of SSEB Chair at 1. Accordingly, we deny this protest allegation.

Childcare Experience

FedCon alleges that TechTrans's proposal does not demonstrate the two years of experience performing childcare services in accordance with Army Regulation 608-10, Army Directive 2014-23, and other applicable federal and state statutes. According to FedCon, the RFP required offerors themselves to possess the experience, and did not permit offerors to satisfy this requirement through any teaming partners. Comments and Supp. Protest at 26. Thus, FedCon asserts that the agency's evaluation was unreasonable because TechTrans satisfied this requirement through its teaming partner. *Id.* Alternatively, FedCon argues that TechTrans's teaming partner does not possess experience performing childcare services in accordance with Army Directive 2014-23. *Id.* at 28-29.

As part of the evaluation criteria for the staffing/management approach subfactor, the RFP advised that offerors were to "[d]emonstrate two years of firm (or firms for teaming solutions) meeting the requirements of Army Regulation 608-10, Army Directive 2014-23, and other applicable state and federal statutes pertaining to child care." RFP, amend. 4 at 53. When evaluating TechTrans's proposal, the agency determined that TechTrans satisfied this requirement because its teaming partner had performed at least two years of childcare services. AR, Tab 30, Initial SSEB Report at 5; Supp. COS at 2.

As to FedCon's first argument, we do not find that it provides us with a basis to sustain the protest. Consistent with the agency's position, we do not interpret the solicitation as prohibiting offerors from relying on the experience of any teaming partner in order to satisfy the requirement. Supp. MOL at 19. While FedCon argues that the provision requires firms and their teaming partners to each possess at least two years of experience, see Comments and Supp. Protest at 26, the plain language of the provision simply does not include language to that effect. See *Anders Constr. Inc.*, B-414261, Apr. 11, 2017, 2017 CPD ¶ 121 at 3 (when interpreting solicitations, our Office defers to the plain meaning of the solicitation). Rather, like the agency, we read the provision as requiring a firm to possess the requisite experience either on its own, or by combining its experience with that of any teaming partners.

As to FedCon's second argument, we conclude that the agency reasonably evaluated TechTrans's teaming partner as possessing the requisite experience. TechTrans's proposal shows that its teaming partner has many years of experience providing compliant childcare for the Army and other service branches. AR, Tab 36, TechTrans Technical Proposal at 41 (explaining that the teaming partner had [DELETED] years of experience, and had provided childcare at [DELETED] events over the past three years). In addition, TechTrans explained that its teaming partner had provided childcare in compliance with Army Regulation 608-10 and applicable federal, state, and foreign statutes and requirements. *Id.*

While TechTrans did not specifically articulate that its teaming partner had provided childcare in accordance with Army Directive 2014-23, the record shows that the agency reasonably concluded that the teaming partner had this experience because it necessarily complied with that routine directive when providing childcare services to the Army and other service branches over the past few years. Supp. AR, Tab 3, Decl. of SSEB Chair at 1; AR, Tab 30, Initial SSEB Report at 5; *see also* AR, Tab 26, TechTrans Individual Evaluator Report at 2 (concluding that TechTrans provided evidence of support for childcare through its teaming partner that complied with the Army Directive); AR, Tab 27, TechTrans Individual Evaluator Report at 2 (same). Accordingly, we deny the allegation because the record shows that the agency reasonably evaluated TechTrans's childcare experience in accordance with the solicitation's requirements.

The protest is denied.

Thomas H. Armstrong
General Counsel