



Decision

Matter of: Bliss Pharmacy Services

File: B-418521

Date: April 24, 2020

Eric J. Van Schyndle, Esq., Quarles & Brady, LLP, for the protester.
J. Bradley Reaves, Esq., and Beth V. McMahon, Esq., ReavesColey, PLLC, for C&E Pharmacy Services, LLC, an intervenor.
Tyler W. Brown, Esq., Department of Veterans Affairs, 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 protester's quotation is denied where record shows that evaluation was reasonable and in accordance with applicable statutes and regulations.

DECISION

Bliss Pharmacy Services, of Gilbert, Arizona, protests the award of a contract to C&E Pharmacy Services, LLC, of Mount Pleasant, South Carolina, under request for quotations (RFQ) No. 36C24619Q1139, issued by the Department of Veterans Affairs (VA) for virtual pharmacy services at the Durham VA Medical Center. Bliss argues that the agency misevaluated its quotation.¹

We deny the protest.

This protest is confined solely to a challenge to the agency's evaluation of Bliss's past performance. The RFQ provided that the agency would make award on a best-value

¹ In its initial protest, Bliss argued, based on information and belief, that the agency also misevaluated the C&E quotation. In its comments responding to the agency report, Bliss made no further mention of this allegation. In addition to failing to state a cognizable basis for protest, 4 C.F.R. § 21.5(f), we find that Bliss abandoned this aspect of its protest. We therefore dismiss this allegation. *Yang Enterprises, Inc.*, B-415923, Mar. 12, 2018, 2018 CPD ¶ 109.

tradeoff basis, considering technical, past performance and price, with past performance deemed significantly more important than technical and price.² RFQ at 23. The agency would evaluate past performance using past performance questionnaires, as well as information obtained by the agency from other sources. RFQ at 26. The RFQ further stated that the agency could make award to a firm offering other than the lowest overall price where the low-priced firm was not assigned a rating of substantial confidence to its past performance. RFQ at 27. As is relevant for purposes of this protest, the RFQ provided as follows regarding the agency's plan to evaluate past performance:

The purpose of the past performance evaluation is to allow the government to assess the offeror's ability to perform the effort described in the solicitation, based on the offeror's demonstrated present and past performance. Past performance evaluated will be the past performance of the prime contractor (Company submitting the quote). The assessment process will result in an overall performance confidence assessment rating of Substantial Confidence, Satisfactory Confidence, Limited Confidence, No Confidence, or Unknown Confidence as defined in Table 3 below. Past performance regarding predecessor companies, key personnel who have relevant experience, or sub-contractors that will perform major or critical aspects of the requirement will not be considered as highly as past performance information for the principal offeror. Offerors with no relevant past or present performance history or [where] the offeror's performance record is so limited that no confidence assessment rating can be reasonably assigned shall receive the rating "Unknown Confidence", meaning the rating is treated neither favorably nor unfavorably.

RFQ at 26 (emphasis supplied).

The record shows that Bliss, in its quotation, expressly stated it was a newly-established concern that did not have any past or current contracts performing virtual pharmacy services. Bliss's quotation provides as follows:

BPS [Bliss] itself does not have past performance in the virtual pharmacy space and does not have active contracts in either private company or government space. BPS Staff and Lead Pharmacist have extensive active engagement with VA Medical Centers across the US.

* * * * *

² The RFQ advised firms that the technical factor would be assigned an adjectival rating of acceptable or unacceptable. RFQ at 25. In evaluating past performance, firms were advised that the agency would assign adjectival ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence or, where a firm did not have a record of past performance, unknown confidence. RFQ at 27-28.

BPS's Lead Pharmacist, . . . , has over a decade of extensive experience with the VA medical center virtual pharmacy projects. She has provided virtual pharmacy services for over 30 VA medical centers since 2004, both inpatient and outpatient virtual pharmacy services. With our Lead Pharmacist's exceptional skills, past performance experience, and professional knowledges, this has made her a powerful asset at BPS.

Agency Report (AR), exh. 4, Bliss Quotation, at 119.³ The Bliss quotation did not include any information relating to the particular contracts on which Bliss claimed its staff and lead pharmacist had performed beyond the general suggestion, quoted above, that they had "extensive active engagement with VA Medical Centers across the U.S." *Id.*

The record shows that, notwithstanding the complete absence of any information included in its quotation relating to past performance, the contracting officer performed a search for such information in the Past Performance Information Retrieval System and found no information. AR, exh. 5, Source Selection Decision Document, at 3. Based on these facts, the agency assigned Bliss an unknown confidence rating because the firm did not have any past performance. *Id.* Although Bliss quoted a lower price than that quoted by C&E, the agency made award to C&E because that firm was the lowest-priced concern that also had been assigned a substantial confidence rating for its past performance. *Id.* at 6-7.

Bliss argues that the agency should have assigned it a substantial confidence rating for its past performance, based solely on the representations in its quotation relating principally to the past performance of its lead pharmacist, and secondarily to those relating to its proposed staff. According to the protester, although the RFQ emphasized that the agency was primarily concerned with the past performance of the principal entity (in this case, Bliss), the RFQ also required the agency to consider the past performance of its key employees, including in particular, its lead pharmacist.

We find no merit to the protest. Although Bliss is correct that the RFQ contemplated the possibility of taking into account the past performance of, among other things, its key personnel, the RFQ was explicit in advising firms that the past performance of such individuals would not be considered as highly as past performance information relating to the firm submitting the quotation. RFQ at 26. In any event, although agencies properly may take into account information relating to, for example, the past performance of a firm's key personnel, the agency may nonetheless conclude that the past performance of such individuals is not relevant to an assessment of the corporate entity's performance history, and is not indicative of the entity's future performance. *Blue Rock Structures, Inc.*, B-287960.2, B-287960.3, Oct. 10, 2001, 2001 CPD ¶ 184 at 6. As was the case here, an agency reasonably may conclude that the past performance of a firm's key personnel--gained while employed by another firm--does

³ Bliss's quotation is paginated by sections. Our citation is to the pdf page of the document provided by the agency in its report.

not demonstrate or ensure that the newly formed entity has the capability to function as a corporate entity, or to successfully perform the solicited requirement. *Id.*

Simply stated, we have no basis to object to the agency's past performance evaluation of Bliss, given that the firm does not have any previous experience performing virtual pharmacy services. Although Bliss apparently has arranged for the services of one or more individuals that previously may have performed such services, this fact, without more, does not demonstrate that Bliss as a company has any past performance experience providing such services. It follows that the agency's assignment of an unknown confidence rating to Bliss for its past performance--a rating that is neutral--was unobjectionable.

The protest is denied.

Thomas H. Armstrong
General Counsel