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Decision

Matter of: Re-Engineered Business Solutions, Inc.

File: B-418640; B-418640.2

Date: July 10, 2020

Wayne A. Keup, Esq., Wayne A. Keup, PLLC, for the protester.
Scott M. Heimberg, Esq., and Elise A. Farrell, Akin Gump Strauss Hauer & Feld LLP, R&D Maintenance Services, Inc., for the intervenor.
Connie L. Baran, Esq., Department of the Army, for the agency
Christine Milne, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the evaluation of proposals is denied where record shows that the evaluation was reasonable and consistent with applicable statutes and regulations.

DECISION

Re-Engineered Business Solutions, Inc., of Cocoa, Florida, protests the award of a contract to R&D Maintenance Services of Tulsa, Oklahoma, under request for proposals (RFP) No. W912HN-19-R-5002 issued by the Department of the Army, U.S. Army Corps of Engineers, for maintenance, repair, minor construction services, and operation of the Hartwell Project at the Hartwell Dam and Lake in Georgia and South Carolina. Re-Engineered argues that the agency miscalculated proposals.

We deny the protest.

BACKGROUND

The RFP, issued on July 24, 2019, contemplated award of a hybrid fixed-price and cost-plus-fixed-fee contract to provide services for a 1-year base period and up to four 1-year option periods. Agency Report (AR), exh. 3, RFP at 13, 119, 149. The solicitation was a total small business set-aside for the maintenance, repair, minor construction, and operation of the Hartwell Project, including the project manager's office, campgrounds, day-use parks, boating access areas, dams, the power plant, and Clemson pumping station. *Id.* at 13.

Award was to be made to the firm whose proposal was the best value for the government considering three factors: technical, past performance, and cost/price.¹ RFP at 150. The technical and past performance factors were deemed equally important, and when combined, were deemed significantly more important than cost/price. *Id.* The technical factor included four subfactors: (1) workforce; (2) service approach; (3) equipment, materials, and supplies; and (4) management approach. *Id.* These four subfactors were deemed equally important. *Id.*

The agency received four proposals, including those of Re-Engineered and R&D. The agency assigned the following evaluation ratings to the proposals of Re-Engineered and R&D:

	Re-Engineered	R & D Maintenance
Technical	Acceptable	Good
Workforce	Good	Outstanding
Service Approach	Good	Outstanding
Equip./Matl./Supplies	Marginal	Good
Mgmt. Approach	Good	Acceptable
Past Performance	Substantial Confidence	Substantial Confidence
Proposed Cost/Price	\$15,338,314	\$15,986,748
Most Probable Cost/Price	\$15,847,643	\$16,136,356

AR, exh. 10, Source Selection Decision at 2-3. Based on these evaluation results, the agency selected R&D as the firm submitting the proposal deemed to offer the best overall value to the government. After being advised of the agency’s selection decision and requesting and receiving a debriefing, Re-Engineered filed the current protest.

DISCUSSION

Re-Engineered challenges the agency’s technical evaluation, as well as the accuracy of the agency’s independent government estimate (IGE). We have considered all of the protester’s allegations and find no merit to its protest. We note at the outset that, in reviewing protests challenging an agency’s evaluation of proposals, our Office does not reevaluate proposals but instead examines the record to determine whether the agency’s judgment was reasonable and consistent with the solicitation’s evaluation criteria and applicable statutes and regulations. *Williams Building Co. Inc.*, B-417210 *et al.*, Mar. 29, 2019, 2019 CPD ¶ 131 at 4.

¹ For the technical factor, the agency assigned adjectival ratings of outstanding, good, acceptable, marginal, or unacceptable. RFP at 144. For the past performance factor, the agency assigned adjectival ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown (neutral) confidence. *Id.* at 146. For the cost/price factor, the agency evaluated proposals for completeness, price reasonableness, cost realism, and unbalanced pricing. *Id.*

Technical Proposal Evaluation

Re-Engineered argues that the agency used an unstated evaluation factor when it assigned a significant weakness to the proposal based on the age of the vehicles Re-Engineered intended to use during contract performance. Re-Engineered asserts that there was no age requirement for the vehicles stated in the solicitation, and that it did not supply any information to the agency about the age of its vehicles. Re-Engineered also alleges that R&D's proposal was treated differently because its vehicle fleet also includes used vehicles, but it did not receive a weakness for the age of its vehicles.

We find no merit to this aspect of the protest. The record shows that the agency had concerns about the relative age of the fleet of vehicles being proposed by the protester, and also was not able to discern precisely which of Re-Engineered's proposed vehicles were new or used. For example, the source selection authority found as follows:

Most vehicles are in constant use, and with major failures more likely, the expectation is there will be more disruptions to work as vehicles are repaired or swapped out more frequently, so fleet reliability will be lower than other offerors. The offeror [Re-Engineered] indicated that a mix of new and used equipment would be used, but the SSEB [source selection evaluation board] cannot determine what new equipment will be provided in order to assess any risks posed by providing older equipment.

AR, exh. 10, Source Selection Decision, at 7.

While the protester is correct that there was no specific vehicle age requirement stated in the solicitation, the record shows that the agency reached its conclusion about the relative age of Re-Engineered's proposed vehicle fleet based on information contained in its proposal. Re-Engineered expressly stated in its proposal that: "For example, at Hartwell [the location of contract performance] and many other projects site[s] RBS [Re-Engineered] has vehicles with over 200,000 miles that run and operate like new."² AR, exh. 4, Technical Volume 1 at 50-51. The protester's proposal also states:

Further, even though we are proposing used vehicles that may experience an engine or transmission failure, RBS [Re-Engineered] has not proposed any engine or transmission replacement cost in the firm fixed price. Instead vehicles with engine or transmission failures will be repaired at RBS expense or RBS will replace the failed vehicle with a comparable used vehicle at no cost to the Government. RBS has a fleet of over 20 used reserved trucks that can be used to replace a vehicle at Hartwell within 24 hours.

² Re-Engineered is the current incumbent contractor for the requirement.

Id. at 50 (italics in original).³ The record therefore shows that the agency had a reasonable concern about delays in performance that might be occasioned by the use of a fleet of vehicles that was not adequately described in Re-Engineered's proposal, and that also would necessarily require more repair and maintenance than a newer fleet of vehicles.

We also have no basis to find the proposals of Re-Engineered and R&D were disparately evaluated. Unlike Re-Engineered's proposal, R&D's proposal identified the year of manufacture for all of its vehicles (in those instances where a used vehicle was contemplated, R&D's proposal expressly stated that the manufacturing date of equipment to be used was "2015 or newer"). AR, exh. 5, R&D Technical Proposal, Volume, 1 at 56. The record therefore shows R&D's vehicles are no more than five years old, and some of them will be newer. Moreover, R&D did not propose a vehicle risk mitigation strategy, as Re-Engineered did. There thus was a reasonable basis for the agency to distinguish between the two proposals. In view of the foregoing, we deny this aspect of Re-Engineered's protest.

Independent Government Estimate

Re-Engineered alleges the agency improperly assessed the firm's proposal several weaknesses. The protester asserts these weaknesses were an improper comparison of the IGE to its proposal because, according to the protester, the IGE is flawed. We find no merit to these allegations. We discuss one example for illustrative purposes.

The record shows that Re-Engineered's proposal was assigned a weakness for offering too many rolls of toilet paper; Re-Engineered proposed to use 715 cases of toilet paper. AR, exh. 7, Source Selection Evaluation Board Report, at 24. Re-Engineered argues that the agency's calculation of the IGE--which is based on 305 rather than 715 cases--is defective because it is based on data derived from Re-Engineered's prior cost-reimbursement contract, whereas this aspect of the solicited requirement is fixed-price.

The agency's program manager explains in an affidavit that he based his calculation of the number of rolls of toilet paper based on actual invoices submitted by Re-Engineered during 2015 and 2016, and then averaged those numbers to arrive at the number used in the IGE. Supplemental Agency Report (SAR), exh. 1, Declaration of the Agency's Program Manager, at 2. Re-Engineered has not explained--and it is not apparent to us--why the contract type (cost-reimbursement versus fixed-price) would affect the

³ Re-Engineered's proposal also included a table listing the vehicles, specialized equipment, and tools it intended to use during contract performance. AR, exh. 4, Re-Engineered's Technical Proposal, Volume 1, at 53-60. Of significance, none of the vehicles listed in the table includes information about the year of manufacture. This confirms the evaluators' other concern, namely, that they could not tell from a reading of the proposal the age of the vehicles proposed, or the proportion of new versus used vehicles being proposed.

reliability of the actual, historical data used by the agency in arriving at its estimate, nor has it shown that the agency's data is in any way materially flawed or incorrect. Simply stated, the agency's IGE calculation was entirely reasonable inasmuch as it was based on actual historical data that Re-Engineered has not drawn into question. We therefore deny this aspect of its protest.

The protest is denied.

Thomas H. Armstrong
General Counsel