



Decision

Matter of: Patriot Defense Group, LLC

File: B-418720.3

Date: August 5, 2020

Todd Wilcox, for the protester.

Alexis J. Bernstein, Esq., Isabelle P. Cutting, Esq., Major Michelle Gregory, and Captain Allison Johnson, Department of the Air Force, for the agency.

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DIGEST

Protest challenging the agency's evaluation of the relevancy of the protester's past performance references is denied where the record demonstrates that the agency's evaluation was reasonable and in accordance with the terms of the solicitation; it is an offeror's responsibility to submit an adequately written proposal, and supplementation submitted during the course of a protest to bolster an inadequate proposal fails to provide a basis to question the reasonableness of the agency's evaluation of the protester's proposal as it was submitted.

DECISION

Patriot Defense Group, LLC, a small business of Orlando, Florida, protests its non-selection for a multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contract under request for proposals (RFP) No. H92400-19-R-0003, which was issued by the U.S. Special Operations Command (USSOCOM), for subject matter expertise and knowledge-based services in support of USSOCOM's enterprise requirements for U.S.-based and globally-aligned Special Operations Forces missions. Patriot challenges the agency's evaluation of the relevancy of the protester's past performance references.

We deny the protest.

BACKGROUND

The RFP, which was issued as a total small business set-aside on June 14, 2019, and subsequently amended one time, sought proposals for multiple IDIQ contracts to provide USSOCOM with Special Operations Forces Core Services Support (SCS),

including: education and training services; management support services; program management; engineering, technical and professional services; and administrative and other services. The RFP contemplated that the resulting IDIQ contracts will have a potential 10 year period of performance, comprised of a 5-year base period, an initial 3-year option period, and an additional 2-year option period. RFP at 34.¹ Orders against the IDIQ contracts may be placed on a labor-hour, time-and-material, fixed-price, or cost-plus-fixed-fee basis, with an aggregate ceiling for all contracts of \$950 million. *Id.* at 2-9.

The RFP provided that award would be made to all “qualifying offerors,” defined as offerors that received a pass rating for administrative and responsibility matters, an acceptable rating for an IDIQ Management evaluation factor, and a substantial confidence rating for past performance.² *Id.* at 56. Only the past performance factor is relevant to the issues presented in the protest.

Offerors were required to submit a minimum of three past performance information sheets for contracts which were relevant to demonstrating the offeror’s ability to perform the work set forth in the solicitation. *Id.* at 50. The RFP further provided that relevancy was defined as contracts that were most similar to this effort when compared to the SCS requirements set forth in RFP Attachment 7 – SCS Past Performance Relevancy Baseline. *Id.* at 51. The Attachment 7 SCS Past Performance Relevancy Baseline set out the conditions under which these prior contracts would be assigned past performance relevancy ratings:

¹ References to the RFP herein are to the conformed version of the solicitation that was produced by the agency with its report responding to the protest. Additionally, references herein to page numbers for the RFP and agency report (AR) exhibits are to the Bates numbering provided by the agency.

² The agency did not request, or otherwise evaluate, proposed costs or prices, as this procurement was conducted in accordance with Section 825 of the National Defense Authorization Act (NDAA) for Fiscal Year 2017, Class Deviation 2018-O0006. That authority, which was issued pursuant to 10 U.S.C. § 2305(a)(3)(C), provides that when issuing a solicitation that will result in multiple-award contracts issued for the same or similar services, entities subject to Title 10 of the U.S. Code may exclude price or cost as an evaluation factor for the contract awards, if the solicitation states that the government intends to make an award to each and all qualifying offerors.

	<u>Very Relevant</u>	<u>Relevant</u>	<u>Somewhat Relevant</u>	<u>Not Relevant</u>
Magnitude and Contract Type				
Awarded Contract Value	\$7M+	\$5M+	\$3M+	Less than \$3M
Contract Type	Multiple Award IDIQ with Time and Materials (Federal Acquisition Reg. (FAR) 16.6) and/or Labor Hour (FAR 16.5) with fixed-price (FAR 16.2) and cost-reimbursement (FAR 16.3)	Single Award Contract with Time and Materials (FAR 16.6) or Labor Hours (FAR 16.5) with fixed-price (FAR 16.2) and cost-reimbursement (FAR 16.3)	Single/Multiple Award IDIQ with only one contract type -OR- Non-IDIQ with mix including fixed-price (FAR 16.2) and cost-reimbursement (FAR 16.3)	Non-IDIQ all fixed-price (FAR 16.2)
Contract Type (Personal Services, Non-Personal Services, Supplies)	Non-Personal Services Contract	Mix of Non-Personal Services and Personal Services Contract	Personal Services	Non-Services Contract
Number of Contracted Personnel	50+	25+	10+	<10
Complexity				
Diversity of Required Expertise/Volume of Subcontractors and Teaming Required	Requires extensive subcontract management experience; Required to manage numerous subcontracting requirements with multiple teaming partners for services (>5 subcontractors)	Requires substantial subcontract management experience; Required to manage multiple subcontracting requirements teaming partners for services and/or products (3-5 subcontractors)	Required to manage some subcontracting requirements (2 subcontractors)	Required to manage very little subcontracting requirements (0-1 subcontractor)
Required Business Systems	At a minimum the contractor was required to have an adequate accounting system			Effort required no acceptable business systems

	<u>Very Relevant</u>	<u>Relevant</u>	<u>Somewhat Relevant</u>	<u>Not Relevant</u>
Performance Locations and Geographical Requirements	Performance required in 5 or more locations with a minimum of 1 which require International Traffic in Arms Regulations (ITAR) compliance	Fewer than 5 locations with a minimum of 1 which requires ITAR compliance	Performance required at one or more locations; did not require ITAR	Onsite Performance not required
Similarity of the Scope				
Variety of Labor Categories	>10	7-10	5-6	<5
Type of Service	Performance required in Education and Training Services as defined in SOW 5.1	Performance required in 1 or more Requirement categories identified in SOW 5.1 - 5.6	Performance required in Professional Services outside those defined in SOW 5.1 - 5.6	Effort required no performance of Professional Services
Department of Defense (DOD) or Other Government Agency (OGA) Support	DOD		OGA	Commercial Only

The RFP warned offerors that they were required to “[i]nclude rationale supporting the assertion of relevance,” RFP at 50, and to “[d]escribe in detail how your company past performance on [each] contract applies to the Relevancy Criteria identified in Section L,” *id.*, attach. 4, Past Performance Information Sheet, ¶ 6. USSOCOM was to evaluate the offeror’s demonstrated record of performance in providing the services delineated in the SCS statement of work, considering recency, quality, and relevancy. RFP at 55.

USSOCOM ultimately received 86 timely proposals from eligible small business offerors, including from Patriot. AR, Tab 6, Source Selection Evaluation Board (SSEB) Report, at 2-3. For the purposes of evaluating past performance relevancy, the SSEB implemented a point system to score each of the SCS Relevancy Baseline’s ten criteria and to assess the overall relevance of each submitted past performance reference. Specifically, the SSEB utilized the following point system for each of the ten criteria: very relevant – 10 points; relevant – 6 points; somewhat relevant – 3 points; and not relevant – 0 points. *Id.* at 10. After scoring each criterion, the SSEB would sum the points and arrive at a relevancy adjectival rating for each reference based on the following scoring: very relevant – 80-100 points; relevant – 60-79 points; somewhat relevant – 30-59 points; and not relevant – 0-29 points. *Id.* The agency then evaluated the quality of performance on each reference, and assigned an overall past

performance confidence rating considering the recency, relevancy, and quality of all of the offeror's references. *Id.* at 11.

Patriot submitted three past performance references, two references for itself and the third for one of Patriot's proposed subcontractors. In its past performance proposal, Patriot self-assessed each of its three past performance references as very relevant. The SSEB, however, found that it could not substantiate Patriot's self-assessment on a number of the SCS Relevancy Baseline criteria, and therefore rated the references less favorably than Patriot's self-assessment. Specifically, the parties respectively assessed the references as follows:

Reference 1 (Patriot)		
SCS Relevancy Baseline	Patriot Self-Assessment	SSEB Evaluation
Awarded Contract Value	Very Relevant	Relevant
Contract Type	Relevant	Somewhat Relevant
Contract Type (Personal Services, Non-Personal Services, Supplies)	Very Relevant	Very Relevant
Number of Contracted Personnel	Very Relevant	Not Relevant
Diversity of Expertise/Volume of Subcontractors	Very Relevant	Not Relevant
Required Business Systems	Very Relevant	Not Relevant
Performance Locations & Geographical Requirements	Somewhat Relevant	Somewhat Relevant
Variety of Labor Categories	Very Relevant	Relevant
Type of Service	Very Relevant	Very Relevant
DOD or OGA	Very Relevant	Very Relevant

Reference 2 (Patriot)		
SCS Relevancy Baseline	Patriot Self-Assessment	SSEB Evaluation
Awarded Contract Value	Very Relevant	Relevant
Contract Type	Relevant	Somewhat Relevant
Contract Type (Personal Services, Non-Personal Services, Supplies)	Very Relevant	Very Relevant
Number of Contracted Personnel	Relevant	Not Relevant
Diversity of Expertise/Volume of Subcontractors	Relevant	Not Relevant
Required Business Systems	Very Relevant	Very Relevant
Performance Locations & Geographical Requirements	Very Relevant	Relevant
Variety of Labor Categories	Relevant	Somewhat Relevant
Type of Service	Very Relevant	Very Relevant
DOD or OGA	Very Relevant	Very Relevant

Reference 3 (Subcontractor)		
SCS Relevancy Baseline	Patriot Self-Assessment	SSEB Evaluation
Awarded Contract Value	Very Relevant	Very Relevant
Contract Type	Very Relevant	Relevant
Contract Type (Personal Services, Non-Personal Services, Supplies)	Very Relevant	Very Relevant
Number of Contracted Personnel	Very Relevant	Very Relevant
Diversity of Expertise/Volume of Subcontractors	Relevant	Not Relevant
Required Business Systems	Very Relevant	Very Relevant
Performance Locations & Geographical Requirements	Relevant	Relevant
Variety of Labor Categories	Very Relevant	Very Relevant
Type of Service	Relevant	Very Relevant
DOD or OGA	Very Relevant	Somewhat Relevant

Compare AR, Tab 5, Patriot Past Performance Proposal, at 6 with Tab 7, SSEB Rep. Appendix – Patriot Evaluation, at 2-5.³

Based on the above evaluation, the SSEB found Reference 1 – somewhat relevant (48 points), Reference 2 – somewhat relevant (58 points), and Reference 3 – relevant (75 points). AR, Tab 7, SSEB Rep. Appendix – Patriot Evaluation, at 2-5. The SSEB then evaluated the quality of performance on the three prior contracts. The SSEB found Patriot’s performance on the contracts covered by references 1 and 2 was very good. *Id.* at 3-4. The SSEB assigned an unknown confidence rating for the performance related to the third contract reference submitted on behalf of the subcontractor because there were no contractor performance assessment reports available and the designated points of contact did not return any questionnaires. *Id.* at 5. Based on the assessed relevancy and quality of Patriot’s past performance, the SSEB evaluated Patriot’s past performance as warranting a limited confidence assessment overall. *Id.* at 6.

The SSEB ultimately evaluated 46 other offerors as being eligible for award based on their technical acceptability and substantial confidence past performance assessments. AR, Tab 6, SSEB Report, at 24-26. The Source Selection Advisory Council (SSAC) reviewed the SSEB’s evaluation and findings for accuracy, consistency, and supportability in accordance with the evaluation criteria, and concurred with the SSEB’s findings. AR, Tab 10, SSAC Recommendation, at 3. The Source Selection Authority adopted the SSAC’s recommendation, and made award to the 46 qualifying offerors.

³ Because Patriot proceeded without counsel in this protest, and therefore no protective order was issued, protected information cannot be included in this decision. Accordingly, some aspects of our discussions will necessarily be general in nature to avoid reference to non-public information. Our conclusions, however, are based upon our review of the entire record, including non-public information.

AR, Tab 12, Source Selection Decision, at 3, 6-8. Following a debriefing, Patriot filed this protest with our Office.⁴

DISCUSSION

Patriot challenges the agency's evaluation of the relevancy of its two submitted prime past performance references (references 1 and 2), arguing that had the agency properly found both references to be very relevant, instead of only somewhat relevant, then Patriot would have received an overall substantial confidence assessment and received an award, as opposed to the assessment of limited confidence assigned by the agency.⁵ The protester contends that its proposal was sufficiently detailed to support its self-assessment of the relevancy of its prime references, and the agency failed to reasonably evaluate the information set forth in the protester's proposal. For the reasons that follow, we find no basis on which to sustain the protest.

In reviewing protests challenging the evaluation of an offeror's proposal, it is not our role to reevaluate proposals; rather, our Office examines the record to determine whether the agency's judgment was reasonable, and in accordance with solicitation criteria and applicable procurement statutes and regulations. *Goldbelt Falcon, LLC*, B-410251, Nov. 21, 2014, 2014 CPD ¶ 355 at 4-5. In a negotiated procurement, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. *Applied Visual Tech., Inc.*, B-401804.3,

⁴ Seven other disappointed offerors also submitted protests challenging their respective non-selection for an IDIQ contract; those protests were either withdrawn, or dismissed as academic based on the agency's proposed corrective action specific to the allegations raised in those protests.

⁵ The protester only challenges the agency's relevancy assessments for its two prime past performance references. Patriot does not alternatively challenge its limited confidence past performance rating *per se*, which the RFP defined as "[b]ased on the offeror's recent/relevant performance record, the Government has a low expectation that the Offeror will successfully perform the required effort." RFP at 56. While not argued by the protester, to the extent the agency found that Patriot's proposal failed to demonstrate an adequate record of relevant past performance, the more appropriate confidence assessment would have been neutral, which the RFP defined as "[n]o recent/relevant performance record is available or the offeror's performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned." *Id.* This is especially true because the agency did not identify any performance issues with the references for Patriot, and in fact rated both somewhat relevant references as very good for quality. AR, Tab 7, SSEB Rep. Appendix – Patriot Evaluation, at 3, 4. Nonetheless, even if the agency had assigned Patriot an overall neutral confidence assessment, the protester still would not have been a "qualifying offeror" eligible for an award because it did not otherwise demonstrate a past performance record warranting a substantial confidence assessment.

Aug. 21, 2015, 2015 CPD ¶ 261 at 3; *ARBEIT, LLC*, B-411049, Apr. 27, 2015, 2015 CPD ¶ 146 at 4.

As addressed above, the parties disagree over the clarity and level of detail contained in Patriot's proposal. The protester contends that its proposal provided sufficient information to substantiate its very relevant self-assessments for its prime past performance references. In contrast, the agency argues that notwithstanding the RFP's clear admonishment to offerors to substantiate their relevancy assertions, Patriot's proposal in a number of respects failed to provide any meaningful support for its assessments. As the following representative example demonstrates, the protester's proposal failed to include sufficient information to support its self-assessments regarding the relevancy of its past performance.

For example, Patriot challenges the agency's disagreement with the proposal's relevancy self-assessment regarding the number of contracted personnel for both of its prime references. Patriot first points to its own self-assessment that its first reference was "very relevant" and its second reference was "relevant" for the number of contracted personnel criterion. Patriot contends that its proposal provided sufficient evidence to substantiate the proposal's claimed number of contracted personnel for each effort. AR, Tab 5, Patriot Past Performance Proposal, at 6.

This argument, however, is without merit. As an initial matter, Patriot's self-assigned adjectival ratings in its proposal do not identify the actual number of contracted personnel for either reference. In this regard, the RFP warns in numerous places that offerors must provide sufficient substantiation in their proposals. See, e.g., RFP at 45 ("*Do not merely reiterate the SOW or reformulate the requirements specified in the solicitation.*") (emphasis in original); *id.* at 50 (requiring offerors in their past performance proposals to "[i]nclude rationale supporting the assertion of relevance"); *id.*, attach. 4, Past Performance Information Sheet, ¶ 6 ("Describe in detail how your company past performance on this contract applies to the Relevancy Criteria identified in Section L."). Thus, Patriot's self-assigned adjectival ratings, without more, are insufficient to refute the agency's conclusion that the proposal failed to identify the actual number of contracted personnel.

Patriot next argues that certain excerpts from its proposal were sufficient for the agency to assess the number of contracted personnel for each reference. For example, with respect to reference 1, Patriot asserts that it provides approximately 26 contract personnel for each training program per task order under the contract, and contends that it performs approximately 2-3 task orders a year. Protest at 2. Notwithstanding that this figure is not included in the proposal, Patriot argues that the agency nevertheless should have reasonably understood the scope of contracted personnel for each task order. Patriot specifically contends that had the agency considered each of the positions referenced in the proposal's narrative, the agency could have deduced there were at least 24 personnel involved per task order. In this regard, the protester cobbles together scattered references to "instructors, mentors, role players" (arguing that the agency should have inferred a minimum of 2 each for each category, or 6 total

personnel), “[Special Operations Forces], Counterintelligence, Cyber, Psychology, Surveillance, and [Human Intelligence] [subject matter experts]” (arguing that the agency should have inferred a minimum of 2 each for each category, or 8 total personnel), and “oppositional role players to include Hostile Intelligence, Foreign Intelligence, Host Nation Business and Embassy personnel” (arguing that the agency should have inferred a minimum of 2 for each category, or 8 total personnel). AR, Tab 5, Patriot Past Performance Proposal, at 7, 9. We find no merit to the protester’s argument.

The protester’s position is effectively that the agency should have inferred the number of contracted personnel from various general statements in the proposal, none of which actually identify the number of personnel involved. Patriot’s arguments are neither consistent with the RFP’s specific requirements for offerors to include supporting rationales and descriptions, nor our established line of decisions affirming an offeror’s responsibility to prepare an adequately written proposal.

Furthermore, even if we were to impose on the agency the burden to decipher the contents of this proposal, we find no basis to conclude that the agency reasonably could have deduced the number of contracted personnel involved in Patriot’s prior efforts. In this respect, the protester’s passing references to the personnel involved in performing the requirement raise a host of unanswered questions. For example, are the referenced instructors, mentors, and role players on page 7 of the proposal in addition to the subject matter experts and role players subsequently mentioned on page 9? Are the 2 to 3 courses a year identical in terms of content and types of personnel offered? Is each task order staffed by different personnel, or do some of the same personnel perform on multiple task orders? Absent reasonable specificity in the protester’s proposal substantiating the number of contracted personnel on each reference, we find nothing objectionable in the agency’s contemporaneous evaluation that Patriot failed to substantiate its claims.

Additionally, to the extent Patriot’s protest submissions attempt to more clearly articulate the relevancy of its past performance references, our review is limited to Patriot’s proposal, as submitted. *Applied Visual Tech., LLC, supra*, at 5. In this regard, contracting agencies are not responsible for evaluating information that is not included in a quotation or proposal. *Id.*; *Planned Sys. Int’l, Inc., B-292319.3 et al.*, Oct. 30, 2003, 2003 CPD ¶ 198 at 5. Although some of these questions could be addressed in the context of Patriot’s protest, it was incumbent upon Patriot to submit a clear and adequate proposal for USSOCOM’s evaluation without relying on such further clarifications. The inclusion of clarifying information submitted in Patriot’s protest provides no basis to question the agency’s contemporaneous evaluation of the protester’s proposal as submitted.

Similar proposal inadequacies support the agency’s evaluation with respect to the agency’s assessments under the other challenged evaluation criteria for both references. As with the above example, Patriot’s proposal fails to include adequate

support for its self-assigned adjectival ratings. Therefore, on this record, we find no basis to question the reasonableness of the agency's evaluation.

The protest is denied.

Thomas H. Armstrong
General Counsel