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Decision

Matter of: RiVidium Inc.

File: B-419096; B-419096.2

Date: November 30, 2020

James Y. Boland, Esq., Spencer P. Williams, Esq., and Chelsea B. Knudson, Esq., Venable LLP, for the protester.

Jonathan T. Williams, Esq., Patrick T. Rothwell, Esq., and Christine C. Fries, Esq., Piliero Mazza PLLC, for For Your Information, Inc., the intervenor.

Michael Noyes, Esq., and Paulina Valanty, Esq., Department of Homeland Security, for the agency.

Mary G. Curcio, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency unreasonably evaluated awardee's quotation is denied where evaluation was reasonable and consistent with the solicitation's evaluation criteria.

DECISION

RiVidium Inc., of Manassas, Virginia, protests the issuance of a task order to For Your Information, Inc. (FYI), of Beltsville, Maryland, under request for quotations, (RFQ) No. 1437143, issued by the Department of Homeland Security, United States Secret Service, for human resources support services. RiVidium asserts that the agency unreasonably evaluated FYI's quotation.

We deny the protest.

BACKGROUND

The RFQ was issued as a small business set-aside pursuant to Federal Acquisition Regulation (FAR) subpart 8.4. RFQ at 1, 4. The solicitation provided for the award of a fixed-price task order with a 1-year base period and four 1-year options. *Id.* at 7. The solicitation advised that award would be made on a best-value tradeoff basis considering the following factors, listed in descending order of importance: technical, professional qualifications, and price. *Id.* at 4.

With respect to the technical factor, vendors were required to demonstrate their ability to perform the work described in the statement of work (SOW), including their expertise in classification and staffing requests, administering personnel recruitment and hiring activities, creating models to assess workload and administrative support, and describing their knowledge of personnel security case management, such as scheduling and tracking applicant security interviews and polygraph examinations. *Id.* at 4-5. With respect to the professional qualifications factor, vendors were required to demonstrate their work experience, detailing the nature, date, location, customer, and methods of previous work. *Id.* at 5. Under each non-price factor, vendors were assigned a confidence rating of high confidence, some confidence, or low confidence. *Id.*

Vendors were required to propose personnel to fill 14 positions in three different divisions of the Secret Service: (1) the talent and acquisition division, (2) the benefits and payroll division, and (3) the security management division. *Id.* at 11-15. Resumes were required for each employee proposed. Response to Request for RFQ, Oct. 2, 2020, Questions and Answers (Q&A) at 5. The solicitation identified the tasks and duties that vendors would be responsible for in each division, as well as the experience requirements for each position. *Id.* As relevant to this protest, the talent and acquisition division required personnel in two of its branches--three classification specialists in the classification branch, and five staffing and placement specialists in the administrative, professional, and technical staffing branch. RFQ at 11-12. The staffing and placement specialists were required to have a delegated examining (DE) certification.¹ *Id.*; Q&As at 2, 4.

With respect to price, the RFQ stated the agency would evaluate this factor for reasonableness. RFQ at 4. The agency would add the price for the base and option years to calculate the total evaluated price. *Id.*

Seven vendors responded to the RFQ. Following the evaluation of the quotations, RiVidium and FYI were rated as follows:

¹ The Office of Personnel Management (OPM) is responsible for the competitive examinations required for admission to the competitive service. OPM Delegated Examining Certification Program Guide at 3, available at <https://www.chcoc.gov/sites/default/files/Delegated%20Examining%20Certification%20Program%20Guide.pdf> (last visited Nov. 10, 2020). OPM has delegated these responsibilities to the agencies employing the candidates selected. *Id.* This delegated examining authority permits agencies to conduct their own examining process to fill civil service jobs in the competitive service. *Id.* A delegated examining certification means that an individual has been trained in performing these delegated examining functions. *Id.*

VENDOR	TECHNICAL	PROFESSIONAL QUALIFICATIONS	PRICE
RiVidium	High Confidence	High Confidence	\$10,773,761
FYI	High Confidence	High Confidence	\$7,962,585

Consensus Evaluation Report at 10; Response to GAO Request for Information, Oct. 27, 2020. FYI was selected for award.

RiVidium is the incumbent vendor. After the task order was issued to FYI, the agency and FYI discussed certain incumbent employees that the agency desired to have continue performing on the task order. Req. for Dismissal, exh. 5B, Emails between RiVidium and FYI at 21-22.² This protest followed.

DISCUSSION

RiVidium challenges the evaluation of FYI's quotation on multiple bases. Where, as here, an agency issues a solicitation under the provisions of FAR subpart 8.4 and conducts a competition for the issuance of an order, our Office will not reevaluate the quotations; rather, we review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *Digital Solutions, Inc.*, B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4. Competitions must be conducted on an equal basis; that is, the contracting agency must even-handedly evaluate quotations against common requirements and evaluation criteria. *Kingfisher Sys., Inc.; Blue Glacier Mgmt. Grp., Inc.*, B-417149 *et al.*, April 1, 2019, 2019 CPD ¶ 118 at 8. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

We have reviewed each allegation and find that none provides a basis to sustain the protest. We discuss several issues below.

Resumes

RiVidium complains that the agency failed to scrutinize the resumes provided by FYI in its quotation. RiVidium asserts that a non-incumbent employee that FYI proposed as a staffing and placement specialist (employee S) for the talent and acquisition division is not DE certified, as required by the RFQ. Supp. Protest at 4. RiVidium further argues that FYI failed to provide copies of the DE certifications in its quotation. *Id.* at 4-5. In response, the agency explains that in its quotation FYI indicated on a checklist that employee S, and others, were DE certified. Resp. to Supp. Protests at 3; FYI Quotation at 23, App. A. The agency also notes that the resume of employee S contained multiple

² These page numbers refer to the Bates stamped page numbers on the agency's exhibits.

references to her DE certification. *Id.* Because the solicitation did not require that quotations include a copy of the DE certification, or otherwise indicate how DE certification should be shown, we conclude that it was reasonable for the agency to accept this checklist and find this basis of protest has no merit.

In addition, RiVidium argues that in its quotation, FYI provided copies of resumes of non-incumbent personnel but also stated that with agency approval, it would attempt to hire critical incumbents that the agency desired to keep on the contract. Supp. Protest at 7-8; FYI Quotation at 18. According to RiVidium, the agency evaluated FYI's quotation, and assigned FYI a high confidence rating under the technical factor, based on employees that would not actually be performing on the contract. *Id.* RiVidium argues FYI's quotation should have been rated low confidence under the technical factor. *Id.*

In response, the agency explains that the solicitation did not address incumbent personnel or require vendors to propose only employees that made a commitment to perform on the contract. Resp. to Supp. Protest at 3. In the agency's view, it was therefore reasonable to evaluate FYI's quotation based on the employees it proposed or its plan to potentially hire incumbent employees. *Id.*

We agree. While resumes were required, the solicitation does not specifically state how resumes would be evaluated and there was no evaluation factor for personnel. As discussed above, the technical factor required vendors to describe their expertise in classification and staffing requests, administering personnel recruitment and hiring activities, the ability to create models to assess workload and administrative support, and knowledge of personnel security case management. RFQ at 4-5. The agency stated it would evaluate vendors on their ability to perform the work. *Id.* at 4. RiVidium has not demonstrated that the employees proposed by FYI were not as qualified as the incumbent employees proposed by RiVidium. RiVidium also has not demonstrated that FYI's proposal failed to meet the solicitation requirements under this factor or that the proposal to hire incumbents or utilize the employees proposed, or a combination of both, was contrary to the terms of the solicitation.³

³ We note that RiVidium also proposed personnel that would not perform the contract. Specifically, vendors were required to provide five staffing and placement specialists for the administrative, professional, and technical staffing branch of the talent and acquisition division. These employees require DE certification. RFQ at 12. In its quotation, RiVidium submitted resumes for eight staffing specialists--three incumbent employees, including employee C; one that was currently going through the security process; and four proposed new employees. Req. for Dismissal, exh. 1, RiVidium Quotation at 18-19, 33, 37, 41, 45, 52, 56, 60, 65. Two of the incumbents did not have a DE certification. *Id.* at 18. RiVidium stated:

Please refer to Section 3 (Appendix) for the resumes of our incumbent personnel. Due to the revised requirements in the SOW, we have also

(continued...)

RiVidium also raises several complaints with respect to the agency's request that FYI retain certain incumbent employees. After the task order was issued to FYI, the agency and FYI discussed certain incumbent employees that the agency desired to have continue performing on the task order, including the retention of employee C as a staffing and placement specialist for the talent and acquisition division. Req. for Dismissal, exh. 5B, Email from RiVidium to FYI, Sept. 1, 2020 (4:37 p.m.) (confirming the employees that the agency "would like to keep on board"). RiVidium complains that employee C does not have the DE certification that is required for the talent and acquisition division staffing and placement specialists. Protest at 6; Supp. Protest at 11. In addition, RiVidium argues that since the agency has requested FYI hire incumbent personnel RiVidium proposed in its quotation, RiVidium should have been rated higher than FYI under the technical factor. *Id.*

The agency was only required to evaluate information contained in the quotations, including resumes. FYI did not submit a resume for employee C or propose employee C in its quotation.⁴ See FYI Quotation, App. A. Further, RiVidium does not allege that the employees that FYI did propose were not available. As noted, RiVidium has not demonstrated that the employees proposed by FYI were not as qualified as the incumbent employees proposed by RiVidium. Accordingly, there is no basis to conclude that RiVidium should have been rated higher than FYI under the technical factor. Further, in the absence of an allegation that FYI misrepresented the availability of its proposed employees, whether proposed employees are in fact performing on the contract is a matter of contract administration that we do not consider. *Future-Tec Mgmt. Systems, Inc.; Computer & Hi-Tech Mgmt., Inc.*, B-283793.5, B-283793.6, Mar. 20, 2000, 2000 CPD ¶ 59 at 4. Accordingly, we find no basis to sustain the protest.

Unstated Evaluation Criteria

RiVidium also protests that the agency used unstated evaluation criteria in evaluating FYI's quotation, and assigning it a high confidence rating for the technical factor. RiVidium notes that in evaluating FYI's quotation, one of the evaluators stated that while she rated both vendors high confidence for the technical factor, FYI offered more services which were needed in the records division where the evaluator was the team lead. Supp. Protest at 9-10 (*quoting* Req. for Dismissal, exh. 3, Evaluator Declaration).

(...continued)

identified additional candidates should the [agency] prefer to have some current employees replaced.

Id. Given that RiVidium was leaving it up to the agency to choose which employees it wanted to perform the task order, including employee C, RiVidium's argument is inconsistent with its own approach which also invited the agency to choose certain incumbent employees for continued service.

⁴ The agency also asserts that employee C will work in the special agent/uniformed division branch of the talent and acquisition division, where she is currently working, and where DE certification is not required. Resp. to Supp. Protest at 1.

According to RiVidium, since the solicitation did not state that the agency would consider if a vendor proposed more services than were listed in the solicitation, the agency improperly used an unstated evaluation criterion. *Id.* We disagree.

While agencies are not permitted to use unstated evaluation factors in evaluating quotations, an agency properly may take into account specific matters that are logically encompassed by, or related to, the stated evaluation criteria, even when they are not expressly identified as evaluation criteria. *Camber Corp.*, B-413505, Nov. 10, 2016, 2016 CPD ¶ 350 at 5. The records division is a subsection of the benefits and payroll division. Resp. to GAO Inquiry, Oct. 28, 2020. The solicitation required three benefits and payroll division human resource specialists. RFQ at 13. These three specialists work in the records division. Resp. to GAO Inquiry, Oct. 28, 2020. With respect to the human resource specialists for the benefits and payroll division, the solicitation sets forth “[t]asks, to include [,] but [which are] not limited to the following” and then lists 18 tasks. RFQ at 13. Since the solicitation expressly stated that the tasks to be performed were not limited to the listed tasks, additional tasks were clearly encompassed by the solicitation. In any case, in evaluating quotations in accordance with the stated evaluation factors, agencies may properly consider the degree to which quotations exceed the solicitation requirements. *USGC Inc.*, B-400184.2 *et al.*, Dec. 24, 2008, 2009 CPD ¶ 9 at 6-7. Accordingly, we deny this protest allegation.

Other Issues

In its initial protest, RiVidium argued that: (1) the agency relaxed or waived material solicitation requirements because FYI proposed several incumbent personnel that did not meet the solicitation qualification requirements; (2) the agency should have assigned FYI’s quotation a low confidence rating under the technical factor because FYI based its quotation on incumbent capture; and, (3) the agency should have assigned FYI’s quotation a low confidence rating under the technical factor because FYI’s low price demonstrated that it did not understand the solicitation requirements and intended to recruit unqualified personnel. Protest at 1-2, 6-8. The agency provided a substantive response to each of these issues and requested that we dismiss them. Req. for Dismissal at 2-4; Resp. to Supp. Protest at 1-2. RiVidium did not address the agency’s response with the exception of reiterating that one incumbent employee (employee C) proposed by FYI failed to meet the solicitation requirements. Accordingly, we dismiss these bases of protest except with respect to employee C (discussed above). 4 C.F.R. § 21.3(i)(3).

In addition, in its supplemental protest RiVidium asserted that FYI failed to comply with the solicitation’s requirement regarding font size. Supp. Protest at 8-9. In response, the agency submitted documents to demonstrate that FYI complied with the solicitation’s font size requirement. FYI Quotation Extract Font Size. Again, RiVidium was provided

with the opportunity to address the agency's response, but failed to do so. Accordingly, we also dismiss this issue.

The protest is denied.

Thomas H. Armstrong
General Counsel