

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: PAE National Security Solutions, LLC

File: B-419207.6

Date: November 19, 2021

Anuj Vohra, Esq., Michael E. Samuels, Esq., William B. O'Reilly, Esq., and Karla V. Perez Chacon, Esq., Crowell & Moring LLP, for the protester.

Jonathan T. Williams, Esq., Kevin T. Barnett, Esq., Samuel S. Finnerty, Esq., and Meghan F. Leemon, Esq., Piliro Mazza PLLC, for Celerety Government Solutions, LLC, d/b/a Xcelerate Solutions, an intervenor.

Michael P. Giordano, Esq., Marcela A. Liddick, Esq., and Catherine C. Chen, Esq., Department of Justice, 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 quotations is denied where record shows that agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations.

DECISION

PAE National Security Solutions, LLC, of Fredericksburg, Virginia, protests the issuance of a task order to Celerety Government Solutions, LLC, d/b/a Xcelerate Solutions, of McLean, Virginia, under request for quotations (RFQ) No. 20-NNCP, issued by the Department of Justice, Federal Bureau of Investigation (FBI), to provide administrative and analysis support services for the agency's National Name Check Program (NNCP).¹ PAE argues that the agency miscalculated quotations and made an unreasonable source selection decision.

We deny the protest.

¹ The RFQ was issued using the General Services Administration's Federal Supply Schedule program.

BACKGROUND

This is the third occasion that the issuance of a task order in connection with this solicitation has been protested. In September 2020, the agency issued a task order to Xcelerate and PAE protested that award decision. The agency elected to take corrective action shortly after PAE filed with our Office, and we dismissed PAE's protest as academic. *PAE National Security Solutions, LLC, B-419207, Oct. 26, 2020* (unpublished decision).

Thereafter, in January 2021, the agency again issued a task order to Xcelerate and PAE again protested that selection decision. We sustained certain of PAE's allegations. *PAE National Security Solutions, LLC, B-419207.2, et al., May 19, 2021, 2021 CPD ¶ 205*. Specifically, we concluded that, during its evaluation, the agency had erroneously credited Xcelerate with having experience performing "continuous vetting services," and also credited its program manager for having previous experience transitioning contracts for the FBI, despite the fact that those considerations were not contemplated under the solicitation's evaluation criteria.

We also found that the agency had evaluated the quotations disparately in the areas of staff size and staff retention rates. In particular, the record showed that the agency had assigned a weakness to PAE--but not to Xcelerate--for an ambiguity in its quotation relating to its offered staff size, even though the record showed that there were ambiguities in both quotations relating to the staff size offered by each firm. The record also showed that the agency had assigned a significant strength to Xcelerate's quotation for a [deleted] percent retention rate that the firm had not actually proposed, while assigning PAE only a strength for its offer of lower, but definitized, retention rates.

We recommended that the agency either reevaluate quotations in light of the conclusions reached in our prior decision (or, alternatively, amend the solicitation to clarify its requirements, solicit, obtain and evaluate revised quotations) and make a new source selection decision.

In response to that decision, the agency elected to reevaluate the quotations and make a new source selection decision without revising its solicitation or obtaining revised quotations. The agency again selected Xcelerate for issuance of the task order, and PAE filed the current protest in the wake of the agency's latest source selection decision.

By way of background, the RFQ contemplates the award, on a best-value tradeoff basis, of a fixed-price task order to perform the solicited services for a base year and four 1-year option periods. Firms were advised that quotations would be evaluated considering price and three non-price factors, technical, past performance and security.²

² The RFQ did not identify the relative importance of the non-price factors, except to state that they were "individually and combined" more important than price. RFQ at 24.

RFQ at 24. The technical factor included four subfactors--listed in descending order of importance--as follows: workforce plan, transition plan, key personnel and quality control.³ *Id.* The agency's most recent evaluation resulted in the following ratings being assigned to the quotations:

	PAE	Xcelerate
Technical	Outstanding	Outstanding
Workforce Plan	Acceptable	Outstanding
Transition Plan	Outstanding	Outstanding
Key Personnel	Acceptable	Outstanding
Quality Control	Outstanding	Outstanding
Past Performance	Pass	Pass
Security	Pass	Pass
Price	\$45,996,869	\$47,094,457

Agency Report (AR), exh. 28, Source Selection Decision Document (SSDD), at 6. The record shows that the agency found the Xcelerate quotation technically superior overall to the quotation submitted by PAE and the agency selected Xcelerate for issuance of the task order, despite the fact that Xcelerate quoted a slightly higher price than PAE. *Id.* at 20-21.

DISCUSSION

PAE again challenges the agency's evaluation of quotations, maintaining that the FBI unreasonably assigned a superior rating to the Xcelerate quotation under the workforce plan and key personnel subfactors. According to the protester, if the agency had taken cognizance of the findings in our earlier decision, it would have been unable to find the Xclerate quotation superior to its quotation in these areas.

We have reviewed PAE's allegations and find no basis to object to the agency's evaluation of quotations for the reasons advanced by PAE. We note at the outset that, in reviewing challenges to an agency's evaluation of quotations, our Office does not 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 scheme and applicable statutes and regulations. *Federal Acquisition Services Team OASIS JV, LLC*, B-418776.6, B-418776.7, June 22, 2021, 2021 CPD ¶ 244 at 3. PAE's latest protest amounts to little more than an attempt to re-litigate the

Under the circumstances, we conclude that the three factors are relatively equal in importance. *Bio-Rad Labs, Inc.*, B-297553, Feb. 15, 2006, 2007 CPD ¶ 58 at 6.

³ The RFQ advised that the agency would assign pass or fail (or neutral in the case of a firm having no past performance) ratings to the quotations under the past performance and security factors. RFQ at 26, 27. For the technical factor, the agency would assign ratings of outstanding, acceptable, marginal, unacceptable or neutral. RFQ at 27-28.

issues that formed the basis for our earlier sustain, and largely ignores the contents of the agency's reevaluation record. We discuss our conclusions below.

Workforce Plan

In our prior decision, we found that the agency evaluated the firms' quotations disparately because it assigned a significant strength to the Xcelerate quotation for proposing to achieve a staff retention rate of [deleted] percent, while only assigning the PAE quotation a strength for its proposed plan to achieve definitized retention rates over the life of the task order. *PAE National Security Solutions, LLC, supra.* at 9-10. We concluded that Xcelerate had not actually offered the [deleted] percent retention rate that the agency had relied on for this finding. *Id.*

In its latest protest, PAE again argues that the agency evaluated the quotations disparately by assigning a significant strength to the Xcelerate quotation for its workforce plan's strategy to retain staff, while assigning the PAE quotation only a strength for its definitized retention strategy. In a related argument, PAE asserts that the agency also evaluated quotations disparately under the workforce plan subfactor by assigning its quotation a weakness for a lack of detail in its plan to offer employees financial incentives, while at the same time assigning a strength to the Xcelerate quotation for offering a financial incentive plan that PAE maintains was similarly lacking in detail.

We find no merit to this aspect of PAE's protest. The record shows that the two firms offered fundamentally different workforce plan strategies and the agency preferred Xcelerate's approach over PAE's approach. We find the agency's evaluation conclusions unobjectionable for any of the reasons advanced by PAE.

A review of the Xcelerate quotation shows that it offered to use a [deleted] structure, with [deleted] opportunities [deleted] available to higher performing employees. In addition, Xcelerate offered to use the available positions under the solicited requirement as an opportunity for [deleted] of company employees working on other, related contracts. Xcelerate referred to this overall strategy as its "[deleted]" strategy. Finally, Xcelerate offered [deleted] as an additional component of its workforce plan to promote employee productivity.⁴ See *generally*, AR, exh. 9, Xcelerate Original Quotation at 7-13.

In contrast to Xcelerate's workforce plan approach, PAE (which originally offered a [deleted] strategy that it later abandoned) offered to use a [deleted] plan as its principal means of improving overall task order performance. PAE also offered to meet specific [deleted] goals throughout the life of the task order, and offered to [deleted] associated

⁴ Xcelerate also offered to use strategies such as increased [deleted] for promoting improved productivity among lower-performing employees. AR, exh. 9, Xcelerate Original Quotation, at 11-12.

with [deleted] that would need to be hired in the event it did not meet its specified [deleted] goals. AR, exh. 7, PAE Original Quotation, at 1-13; exh. 12, PAE Revised Quotation, at pdf 1-17.⁵

The record shows that the agency evaluators assigned a significant strength to the Xcelerate workforce plan based on its proposed “[deleted]” strategy, finding that this strategy would result in greater job enhancement and satisfaction among Xcelerate’s employees, leading in turn to a greater likelihood of staff retention. AR, exh. 27, Xcelerate Revised Evaluation Report, at 2. The evaluators also assigned a separate, minor strength to the Xcelerate quotation based on its proposed use of an [deleted] program that targeted both individual employees and also employee teams that were high performers. *Id.* at 3. The evaluators did, however, criticize the Xcelerate quotation for not including extensive detail about the [deleted] program, finding as follows:

The proposal did not delineate how impactful these [deleted] are in comparison to their normal compensations which somewhat mitigates the expected benefits of this minor strength; however, the technical team appreciated their [deleted] approach to performance and oversight. NNCP [national name check program] has seen how exclusively focusing on [deleted] can have a negative effect on morale.

Id.

In comparison, the evaluators assigned a strength to PAE’s workforce plan for offering definitized [deleted] goals. AR, exh. 26, PAE Revised Evaluation Report, at 3. In addition, the evaluators assigned a weakness to PAE’s workforce plan and criticized its decision to abandon its original [deleted] plan, and to rely instead primarily on its [deleted] plan. The evaluators noted that PAE claimed that its [deleted] plan would achieve a wide array of benefits, including driving an increased production rate, a reduction in bottlenecks, achieving work/life balance, providing for regular days off and flexible work schedules, redirecting competition focus inward against personal employee targets, improved recruiting, improved quality, increased earning potential for employees leading to increased retention, and the ability to operate with a leaner workforce. The principal basis for the evaluators’ criticism was the lack of detail regarding how and when its incentive plan would be deployed. The evaluators found as follows:

Although the quote states that PAE’s incentive program will be leveraged in [deleted] periods and for [deleted] periods (pg. 3), PAE’s quote does not sufficiently describe how or when it will implement [deleted] during [deleted] periods. PAE stated that it will run relatively [deleted] on RAs

⁵ Both firms’ revised quotations were comprised of “replacement pages” for the original quotations. These replacement pages are not serially numbered, and the pagination corresponds to the pagination of the original quotations. Our citation to PAE’s revised quotation is to the Adobe pdf pages rather than to the quotation pages.

[research assistants], while leveraging a monetary [deleted] for each Work Item (WI) closed above the case closures metric set for RAs (pg. 15). However, PAE did not state the proposed case closures metric or the amount of its expected increase to production rates. Additionally, the quote states, 'anticipated WI [deleted] along with other operational factors will influence when the incentive is in play' (pg. 3), but PAE did not describe what level of anticipated WI [deleted] would influence its decision to activate [deleted] incentives, what operational factors would influence PAE's decision to initiate [deleted] incentives, or how those factors would influence that decision. As a result, the TET [technical evaluation team] could not determine how PAE intends to utilize the [deleted] plan during [deleted] periods. Absent that, the TET could not determine whether the plan will enable PAE to achieve the numerous benefits claimed by PAE.

AR, exh. 26, PAE Revised Evaluation Report, at 3.

The record thus shows that the firms proposed fundamentally different workforce plans, and the agency preferred the Xcelerate plan over the PAE plan. More to the point, the record shows that the evaluators' principal basis for criticizing the PAE workforce plan was not simply PAE's overall approach of using an [deleted] strategy but, rather, the lack of detail about how that [deleted] plan would work in practice. In a word, there was basic information lacking in PAE's explanation of its workforce plan that left the evaluators unable to ascertain its likelihood of success.⁶ Finally, while the evaluators criticized Xcelerate's [deleted] plan for a lack of detail, they were fundamentally less concerned with a lack of detail in Xcelerate's [deleted] plan because that plan was only a minor element of its overall workforce plan, which relied primarily on Xcelerate's "[deleted]" strategy.

PAE has not shown that any of these findings on the part of the agency were inherently unreasonable, inconsistent with either the terms of the solicitation or our prior decision, or based on an incorrect reading of the firms' quotations. PAE also has not shown that the agency's evaluation was disparate. In this latter connection, both firms' proposed [deleted] plans were criticized by the agency for lacking detail. However, because PAE's workforce plan strategy relied more or less entirely on its [deleted] plan, while Xcelerate's [deleted] plan was only a minor aspect of its overall workforce plan strategy, the importance of the agency's criticism of PAE's [deleted] plan was more central to the agency's ultimate conclusion that it preferred Xcelerate's workforce plan to PAE's. PAE's protest amounts to little more than disagreement with the agency's evaluation

⁶ As noted, the evaluators did credit PAE's quotation for its approach of proposing definitized [deleted] goals and assigned it a strength for offering to [deleted] of [deleted] new hires if those goals were not met. AR, exh. 26, PAE Revised Evaluation Report, at 3. The agency thus recognized this separate strategy for promoting [deleted]. Ultimately, however, the source selection authority discounted the importance of this strength because the monetary impact of [deleted] would be minimal in comparison to PAE's revenue under the contract. AR, exh. 28, SSDD, at 14.

findings; such disagreement, without more, does not provide our Office with a basis to object to the agency's evaluation. *Federal Acquisition Services Team OASIS JV, LLC*, B-418776.6, B-418776.7, June 22, 2021, 2021 CPD ¶ 244 at 6. We therefore deny this aspect of PAE's protest.

Key Personnel

As noted above, we sustained PAE's earlier protest because the record showed that the agency improperly assigned Xcelerate's quotation a significant strength based, in part, on past experience its proposed contract program manager (CPM) had transitioning other contracts for the FBI. We concluded that this amounted to the application of an unstated evaluation consideration because the solicitation made no mention of having past experience transitioning other contracts for the FBI. In its latest protest, PAE argues that the agency once again improperly gave Xcelerate evaluation credit for proposing key personnel with the capability of transitioning contracts for the agency.

We find no merit to this aspect of PAE's protest. The RFQ provided that proposed key personnel would be evaluated based on their education and experience, and that key personnel whose credentials exceeded the minimum requirements outlined in the solicitation would receive additional consideration. The RFQ provided as follows:

Proposed Key Personnel resumes will be evaluated based upon individual relevant work experience; professional education; certifications; clearance levels, and systems/databases used. Proposed personnel who possess greater than the minimum qualifications will receive higher consideration.

RFQ at 25.

Here, the record shows that Xcelerate's quotation was assigned two significant strengths because both its proposed CPM and its deputy CPM possessed education and experience that significantly exceeded the RFQ's minimum requirements. AR, exh. 27, Xcelerate Revised Evaluation Report, at 8. (In contrast, PAE's proposed key personnel did not receive additional consideration because they did not exceed the RFQ's requirements. AR, exh. 26, PAE Revised Evaluation Report, at 7-8.) The evaluators went on to explain that Xcelerate's key personnel exceeding the RFQ's requirements provided a tangible benefit to the agency because the solicited requirement represents a change from the way these services had previously been provided--from using a time-and-materials type contract, to providing these services under a fixed-price type contract. The evaluators explained as follows:

The additional qualifications and experience of Xcelerate's proposed key personnel, as outlined above, are likely to result in a very high level of leadership and management of the contract. This is especially beneficial with the movement of this effort to a new, firm-fixed-price contract type, which is a major change that will require an experienced, reliable partner that can adjust to fluctuations in WI [work item] volume without simply adding additional staff.

AR, exh. 27, Xcelerate Revised Evaluation Report, at 8. The source selection authority (SSA) echoed this finding, concluding that Xcelerate's key personnel's superior qualifications were valuable to the agency in light of the change in contract type. The SSA characterized this finding as follows: "Xcelerate's Key Personnel's experience will be of great value given the complexities of transitioning from a Time and Material led effort to a Firm-Fixed price effort." AR, exh. 28, SSDD, at 17.

The record thus shows that both the evaluators and the SSA were doing nothing more than explaining how the superior credentials of Xcelerate's key personnel would be beneficial in executing the solicited task order. The fact that the SSA used the word "transition" in describing this benefit does not show that Xcelerate's key personnel were given credit for having transitioned other contracts for the FBI. Rather, this was no more than an explanation of why their superior credentials would benefit the agency for the solicited requirement. Accordingly, there is no basis for our Office to question the propriety of the agency's evaluation for the reasons advanced by PAE. We therefore deny this aspect of PAE's protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel