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Decision

Matter of: Booz Allen Hamilton, Inc.

File: B-419210; B-419210.2

Date: December 22, 2020

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David S. Cohen, Esq., John J. O'Brien, Esq., and Daniel J. Strouse, Esq., Cordatis LLP, for Deloitte Consulting LLP, the intervenor.

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Heather Self, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation and selection of a higher-rated, higher-priced proposal for award is denied because the agency's evaluation and best-value tradeoff decision were reasonable and consistent with the terms of the solicitation.

DECISION

Booz Allen Hamilton Inc., of McLean, Virginia, protests the issuance of an order to Deloitte Consulting LLP, of Arlington, Virginia, under task order request for proposals (RFP) No. 70CDCR20-R-000000006, issued by the Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE) for systems and analysis program management support services. The protester challenges the agency's evaluation of its oral presentation, argues that the agency failed to document adequately oral presentations, and contends that the agency made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

On June 25, 2020, the agency issued the solicitation, utilizing the procedures of Federal Acquisition Regulation (FAR) subpart 16.5, to the unrestricted pool of General Services Administration (GSA) One Acquisition Solution for Integrated Services (OASIS)

governmentwide indefinite-delivery, indefinite-quantity (IDIQ) contract holders. Agency Report (AR), Tab 3, RFP at 1, 17, 64. The solicitation sought proposals for the provision of law enforcement systems and analysis (LESA) program management services.¹ *Id.* at 17. The successful contractor would be required “to conduct analysis to ensure better accountability, consistency, and efficiency of statistical reports, briefing papers” and other materials provided by ICE to DHS, Congress, and the White House. AR, Tab 4, Performance Work Statement (PWS) at 2. The successful contractor also would be required to “provide deployment support for ICE Information Technology (IT) initiatives, operations research and strategic analytics, and business process analysis and transformation project support.” *Id.* The PWS explained that tasks under the order would “focus on . . . efforts designed to generate improvements in the immigration enforcement lifecycle.” *Id.* The solicitation contemplated issuance of a single task order with both fixed-price and cost-reimbursement elements for a 1-year base period and four 1-year option periods. RFP at 2, 5, 7, 10, 13, 17-18, 64.

The solicitation provided that the agency would conduct a two-phased evaluation. RFP at 58. During Phase I, the agency would evaluate the most important factor--prior relevant experience. *Id.* at 59, 65. The solicitation required interested offerors to submit a request to schedule a phone interview, and to then submit a written summary of their prior relevant experience at least 48 hours prior to their scheduled phone interview, during which the offerors would be asked to go into more detail about their summary submittals. *Id.* at 59-60. The solicitation explained that the phone interviews would be considered oral presentations, that offerors were not permitted to record them, and that the agency “may record” them. *Id.* at 60. The solicitation established that the agency would evaluate offerors prior relevant experience based on a combination of their written summaries and phone interviews, and assign each offeror a “confidence interval rating” of high, some, or low confidence that the offeror would “perform successfully.” *Id.* at 59-60, 65.

During Phase II, the agency would evaluate the second most important factor--offerors’ oral presentations related to their technical approaches. RFP at 65. In advance of Phase II oral presentations, the solicitation required offerors to submit a PowerPoint presentation of no more than 15 slides, which the solicitation advised would not be evaluated “but may be used as a reference for evaluation.” *Id.* at 62. The solicitation provided that offerors would be provided three hours to make their oral presentations, during which they were required to address five questions set forth in the solicitation and would also be required to respond to “on-the-spot” and “scenario-based” questions posed by the agency during the presentation. *Id.* at 61-63. The solicitation provided that recording of Phase II oral presentations by offerors was “strictly prohibited,” and

¹ Although this is a task order competition under a multiple-award IDIQ contract, the agency issued the solicitation as an RFP rather than a request for quotations and refers to the submission of proposals from offerors instead of quotations from vendors. For consistency and ease of reference to the record, we do the same.

that the agency “may elect to video or audio record” the oral presentations.² *Id.* at 61. The solicitation explained that, after each oral presentation concluded, agency personnel would “do an on-the-spot consensus of the presentation, and determine a confidence rating” of high, some, or low confidence that the offeror understood the requirements and would “perform successfully.” *Id.* at 64-65.

Also as part of Phase II, the solicitation required offerors to submit a three-volume “Administrative Proposal.” RFP at 64. The solicitation required offerors to address the following five sub-elements in volume one of their proposals: (1) representations and certifications; (2) key personnel commitment letters and resumes; (3) organizational conflict of interest mitigation plan; (4) subcontracting goals; and (5) mentor-protégé information. *Id.* at 64-65. The solicitation identified volume one as the third most important evaluation factor, which the agency would evaluate “on a compliance basis,” assigning each of the five sub-elements a yes, no, or not applicable rating. *Id.* The solicitation also required offerors to include their Phase II slide presentation as volume two of their written proposals, and advised that this volume would not be evaluated. *Id.* at 64. For the third volume, the solicitation required offerors to submit their pricing proposals, which would be evaluated for fairness and reasonableness. *Id.* The solicitation identified price as the least important evaluation factor.

The solicitation established that the agency would make award on a best-value tradeoff basis, considering price and non-price evaluation factors, and provided that the non-price factors combined were significantly more important than price. RFP at 65. The agency received four requests to schedule Phase I phone interviews, including requests from Booz Allen and Deloitte. COS at 8. Both Booz Allen and Deloitte participated in both phases of the evaluation, after which the two firms received the following ratings:

	Booz Allen	Deloitte
Phase I Prior Relevant Experience Phone Interviews (Factor 1 - Most Important)	High Confidence	High Confidence
Phase II Oral Presentations (Factor 2 - Second Most Important)	Some Confidence	High Confidence
Administrative Proposal Vol. I (Factor 3 - Third Most Important)	Yes	Yes
Price (Factor 4 - Least Important)	\$44,744,828.34	\$50,388,954.53

AR, Tab 22, Source Selection Award Decision (SSAD) at 2.

The contracting officer, who was also the source selection authority (SSA), reviewed the technical evaluation team’s findings and concurred with the ratings assigned to Booz Allen and Deloitte. AR, Tab 22, SSAD at 16. The SSA also found that both offerors’ proposed prices were below the independent government cost estimate (IGCE), and

² The record reflects that the agency chose not to record any of the oral presentations. AR, Tab 1, Contracting Officer’s Statement (COS) at 11.

concluded that both prices were fair and reasonable. *Id.* at 6. After conducting a comparative assessment of proposals and performing a best-value tradeoff analysis, the SSA concluded that paying a price premium was justified because Deloitte's higher rating under factor two, Phase II oral presentations, "significantly raise[d] the prospect of successful performance," while still providing pricing that was over nine percent below the IGCE. *Id.* at 6. Based on these findings, the SSA selected Deloitte's higher-rated, higher-priced proposal for award. *Id.* at 16. Following a debriefing, Booz Allen filed this protest with our Office.³

DISCUSSION

The protester argues that the agency failed to document adequately the content of offerors' Phase II oral presentations. The protester also challenges multiple aspects of the agency's evaluation of the firm's Phase II oral presentation. The protester further contends that the agency made an unreasonable source selection decision. For the reasons discussed below, we deny the protest.⁴

Documentation of Phase II Oral Presentations

The protester argues that the agency failed to maintain an adequate record of the content of the firm's Phase II oral presentation. Comments & Supp. Protest at 11-14. In support of its argument, the protester relies, in part, on our decisions in *Checchi and Co. Consulting, Inc.*, B-285777, Oct. 10, 2000, 2001 CPD ¶ 132 and *J&J Maint., Inc.*, B-284708.2, B-284708.3, June 5, 2000, 2000 CPD ¶ 106 at 8. The protester's reliance on our decisions in *Checchi* and *J&J* is misplaced. Those cases involved a procurement conducted under the procedures established by FAR part 15, governing negotiated procurements, which include FAR section 15.102(e) requiring agencies to maintain a record of oral presentations. The agency points out that the procurement at issue here, however, was a task order competition conducted under the procedures of FAR subpart 16.5, which provide for a streamlined procurement process with less rigorous documentation requirements. Supp. Memorandum of Law (MOL) at 4, *citing* FAR 16.505(b)(7)(i) (requiring agencies, in task order competitions, to "document in the contract file the rationale for placement and price of each order, including the basis for award and the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision").

³ Our Office has jurisdiction to review this protest pursuant to our authority to hear protests related to task and delivery orders valued in excess of \$10 million placed under civilian agency multiple-award, IDIQ contracts. 41 U.S.C. § 4106(f)(1)(B).

⁴ The protester initially argued that the agency applied unstated evaluation criteria in its assessment of the firm's proposal, disparately evaluated proposals, and further contended that the agency engaged in unequal discussions by permitting Deloitte to make a key personnel substitution. Protest at 15-17, 27-30. The protester subsequently withdrew these protest grounds. Comments & Supp. Protest at 2 n.1.

Here, the record reflects that immediately following each offeror's Phase II oral presentation, the evaluators met to discuss the content and their impressions of the presentation, which they memorialized in a contemporaneous report. Supp. MOL at 4, *citing* COS at 10. In addition to contemporaneous reports of the evaluators' assessments of offerors' Phase II oral presentations, the agency retained copies of the offeror's presentation slides. See *e.g.*, AR, Tab 8, Protester's Phase II Oral Presentation Slides. The solicitation required offerors to submit their oral presentation slides as part of their written proposals, and advised that the agency would not evaluate the slides but could use them as an evaluation reference. RFP at 62. Moreover, the protester itself repeatedly cites to its presentation slides as evidence of the content of its Phase II oral presentation. See *e.g.*, Protest at 16, 19-22, 24, 26-27.

Based on the record here, we conclude that the agency maintained an adequate record of offerors' Phase II oral presentations. See *e.g.*, *Booz Allen Hamilton, Inc.*, B-417418 *et al.*, July 3, 2019, 2019 CPD ¶ 246 at 11 n.16 (in a task order competition, citing offerors' oral presentation slides, which were required as part of written proposals, as evidence of the content of presentations that were not recorded); *Sapient Govt. Servs., Inc.*, B-410636, Jan. 20, 2015, 2015 CPD ¶ 47 at 3 n.2 (in a FAR part 8 procurement, noting that even if the requirements of FAR 15.102(e) applied, the agency maintained a sufficient record "where, in addition to contemporaneous individual evaluator notes, the agency retained copies of the vendors' briefing slides, which guided the vendors' presentations"). Accordingly, we deny this protest ground.

Evaluation of Protester's Phase II Oral Presentation

The protester challenges four of the "confidence decreases"⁵ the agency assessed to the protester's Phase II oral presentation.⁶ Below, we address as a representative example the protester's challenge to the evaluators' assessment with respect to the firm's discussion of its transition out plan. Although we do not address each of the individual challenges to the protester's evaluation, we have reviewed them all and concluded that none provides a basis to sustain the protest.

The protester challenges the agency's assessment of a confidence decrease because its Phase II oral presentation did not address sufficiently the firm's transition out plan.

⁵ The agency explains that it did not assign strengths and weaknesses to offerors' Phase II oral presentations. MOL at 11. Rather, the evaluators identified factors in an offeror's presentation that increased or decreased the agency's confidence that the offeror would successfully perform, and then assigned a confidence interval of high confidence, some confidence, or low confidence. *Id.*, *citing* RFP at 65.

⁶ The record reflects the agency assessed seven confidence decreases in the protester's Phase II Oral Presentation. AR, Tab 11, Protester's Final Consensus Technical Evaluation Report at 3-4. The protester initially challenged six of these confidence decreases, but subsequently withdrew two of the challenges. Comments & Supp. Protest at 2 n.1.; see Protest at 18-19, 24-25.

Protest at 19-21. The protester argues that it addressed its transition out plan on the firm's oral presentation slide 6. *Id.* at 19-20, *citing* AR, Tab 8, Protester's Phase II Oral Presentation Slides at 7. The protester represents that, during its oral presentation, the firm spent 7 to 11 minutes discussing both its transition in and transition out plans, and that approximately 25-30 percent of this discussion time focused on the firm's transition out plan. *Id.* at 20. The agency does not dispute the protester's representations regarding the content of its oral presentation, but maintains that it reasonably found the firm's presentation of its transition out plan inadequate. MOL at 18-19.

The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the agency's discretion. *Booz Allen Hamilton, Inc., supra* at 4. In reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we examine the record to determine whether the agency's judgment was reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. *Id.*; *Logistics Mgmt. Inst., B-417601 et al.*, Aug. 30, 2019, 2019 CPD ¶ 311 at 4. A protester's disagreement with the agency's judgments, without more, is insufficient to establish that an agency acted unreasonably. *Smartronix, Inc.; ManTech Advanced Systems Int'l, Inc., B-411970 et al.*, Nov. 25, 2015, 2015 CPD ¶ 373 at 20.

As discussed above, the solicitation required offerors to address five questions set out in the solicitation during their Phase II oral presentations. One of the five questions required offerors to "speak to an implementable transition plan that will encompass LESA's unique needs and mitigate risks associated with project transition." RFP at 63. Additionally, the question specifically asked each offeror to address how the firm planned "to transition in and transition out." *Id.*

The record reflects that the evaluators assessed a confidence decrease in the protester's proposal because the firm "insufficiently addressed the transition out aspect in their oral presentation." AR, Tab 11, Protester's Final Consensus Technical Evaluation Report at 3. Specifically, the evaluators noted that the protester "relied heavily on [its] status as the incumbent and did not adequately address transition to a new contract." *Id.* The evaluators expressed concern with the protester's "ability to transition adequately to another [v]endor if not selected" for a follow-on contract during the next procurement cycle for the LESA requirement. *Id.*

The protester represents that, during its presentation, it discussed in detail a number of transition tasks in the context of transitioning in, and then stated that after four years and nine months the firm would begin the process of transitioning out if not awarded a follow-on contract. Protest at 20-21. The protester explains that, due to the time limit for its Phase II oral presentation, it "did not go through each of the specific tasks again during the "Transition Out" discussion, but simply referenced that [the firm] would begin those tasks that were previously discussed 90 days out from the follow-on contract award." *Id.* The protester contends that the assessment of a confidence decrease for its alleged failure to address its transition out plan "must have resulted from" the

evaluators ignoring or misunderstanding the firm's discussion of its transition plan. *Id.* at 21. In further support of its argument that it adequately addressed its transition out plan, the protester references slide 6 of the firm's Phase II oral presentation, which, the record reflects included a detailed chart discussing the firm's transition in plan and, beneath this chart, three bullet points addressing the firm's transition out plan. *Id.* at 20-21, *citing* AR, Tab 8, Protester's Phase II Oral Presentation Slides at 7.

The agency notes that, by the protester's own admission, the firm spent almost three-quarters of the time it devoted to answering the solicitation's transition plan question to discussing its transition in plan, and only 25-30 percent discussing its transition out plan. MOL at 19. The agency argues that the protester's contention that it truncated the discussion of the firm's transition out plan by not discussing individual tasks in detail due to the limited amount of time provided for Phase II oral presentations is misplaced because the protester completed its presentation with 17 minutes of its allotted time remaining. *Id.*, *citing* COS at 10. The agency maintains that the evaluators reasonably assessed a confidence decrease in the protester's proposal because the firm failed to address its transition out plan "in a way that was beneficial to the Agency." MOL at 19.

Here, the solicitation advised offerors to ensure that their oral presentations were clear and cautioned that "[t]he onus [was] solely on the [o]fferor to provide their [o]ral [p]resentation in a way that the Government may evaluate properly." RFP at 64. The solicitation further provided that "[t]he Government shall not be held responsible for any misunderstandings." *Id.* As we have consistently stated, it is an offeror's responsibility to submit a proposal that provides adequate detail and clearly demonstrates compliance with the solicitation to allow for a meaningful review by the procuring agency. *Sevatec, Inc.*, B-416617, B-416617.2, Nov. 1, 2018, 2018 CPD ¶ 379 at 8. Agencies are not required to infer information from an inadequately detailed proposal, or to supply information that the protester elected not to provide. *Engility Corp.*, B-413120.3 *et al.*, Feb. 14, 2017, 2017 CPD ¶ 70 at 16. An offeror that does not affirmatively demonstrate the merits of its proposal risks that its proposal will be evaluated unfavorably or rejected. *Sevatec, Inc.*, *supra* at 8. Based on the record here, we find reasonable the agency's assessment of a confidence decrease in the protester's proposal due to its failure to address its transition out plan in sufficient detail.

Best-Value Tradeoff Decision

The protester argues that the agency's best-value tradeoff decision was improper because it was based on a flawed technical evaluation. Protest at 30. This allegation is derivative of the protester's challenges to the agency's evaluation of the firm's proposal. As discussed above, we find no basis to object to the agency's evaluation of the protester's proposal. Accordingly, we dismiss this allegation because derivative allegations do not establish independent bases of protest. *DirectVizSolutions, LLC*, B-417565.3, B-417565.4, Oct. 25, 2019, 2019 CPD ¶ 372 at 9.

The protest is denied.

Thomas H. Armstrong
General Counsel