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Decision

Matter of: Heartland Consulting

File: B-419228.4

Date: July 8, 2021

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DIGEST

Protest that the agency unreasonably made the source selection decision is denied where the record shows that the tradeoff analysis was consistent with the terms of the solicitation.

DECISION

Heartland Consulting, of McLean, Virginia, protests the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to RWD Consulting, LLC, of Washington, D.C., under request for proposals (RFP) No. HT001419R0021, issued by the Department of Defense, Defense Health Agency (DHA), for hospitality services. Heartland argues that the agency unreasonably made the source selection decision.

We deny the protest.

BACKGROUND

On April 21, 2020, DHA issued the RFP to procure hospitality and concierge services at multiple military treatment facilities including Walter Reed National Military Medical Center, Fort Belvoir Community Hospital, and Joint Base Andrews. Agency Report (AR), Tab 10, RFP at 93; *see also* Contracting Officer's Statement at 1. The RFP anticipated the award of an IDIQ contract to be performed on a fixed-price basis over a 1-year base period and four 1-year option periods. RFP at 48, 93-94. The award would be made on a best-value tradeoff basis considering the following four factors:

price, past performance, compensation, and letter of credit.¹ AR, Tab 14, RFP amend. 2 at 16.

The RFP identified past performance as the most important factor. RFP amend. 2 at 10. For past performance, the RFP required offerors to submit at least one but no more than three relevant federal government contracts that were performed for at least six months, and that ended no earlier than six years before the date of the RFP. RFP at 86. The contracts and subcontracts listed were to include previous contracts similar in scope and complexity to the RFP. *Id.* The agency planned to evaluate past performance for recency, relevancy, and quality. *Id.* at 91. To rate the offerors' past performance, the agency anticipated using the following five confidence ratings: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, and no confidence. *Id.* at 92. The RFP advised that offerors with no relevant past performance history would be evaluated neither favorably nor unfavorably. *Id.* at 87.

Ten offerors, including Heartland and RWD, submitted proposals prior to the June 4, 2020, close of the solicitation period. The agency's evaluation produced the following results:

	Heartland	RWD
Price	\$32,013,376	\$35,152,527
Past Performance	Neutral Confidence	Satisfactory Confidence
Compensation	Go	Go
Letter of Credit	Go	Go

AR, Tab 17, SSDD at 16.

Based on the evaluation, the source selection authority (SSA) identified RWD's proposal as offering the best value. AR, Tab 17, SSDD at 20-21. The SSA determined that because RWD's record of past performance demonstrated a high likelihood of success in performing the instant acquisition, RWD's proposal was worth the associated premium. *Id.* at 20. The SSA reached this decision based on the RFP's identification of past performance as the most important factor. *Id.*

DHA awarded the contract to RWD on April 15, 2021. After learning that its proposal was unsuccessful, Heartland filed this protest with our Office on April 19, 2021.

¹ Both the compensation and letter of credit factors were evaluated on a "Go/No-Go" basis. RFP amend. 2 at 18-19. Failure to provide a compensation plan in line with the labor category minimum compensation matrix, without reasonable justification, would result in elimination from consideration for award. Failure to provide a letter of credit for a minimum of \$5 million would also result in elimination from the competition. AR, Tab 17, Source Selection Decision Document (SSDD) at 2.

DISCUSSION

Heartland argues that the selection decision was unreasonable. Specifically, Heartland argues the agency unfavorably treated the firm after assigning it a rating of “neutral confidence” for past performance because the protester lacked a history of past performance. Protest at 5; see *also* Comments at 4. Heartland asserts that its neutral confidence rating resulted in unfavorable treatment in violation of Federal Acquisition Regulation (FAR) section 15.305(a)(2)(iv).² Protest at 5. According to Heartland, the SSA necessarily evaluated the firm’s lack of relevant past performance unfavorably because the tradeoff analysis identified RWD’s positive record of relevant past performance as the distinguishing feature between the quotations. *Id.* at 7; see *also* Comments at 4.

In response, DHA explains that it reasonably identified RWD’s record of past performance as the distinguishing feature in accordance with the terms of the solicitation. Memorandum of Law at 1. The agency states that Heartland did not receive an unfavorable rating based on its lack of past performance but rather the neutral rating was indicative of its lack of relevant past performance. *Id.* at 4. Additionally, DHA argues that while it was obligated to treat Heartland’s neutral confidence rating fairly, it could determine that a higher past performance rating presented a greater value to the government than a neutral rating. *Id.* Lastly, DHA asserts that the SSA fairly evaluated all of the offers as shown by the agency’s documentation and reasoning. *Id.*

Our Office will review protest allegations concerning a source selection decision to determine whether the agency’s judgment was reasonable and in accordance with stated evaluation criteria. See *Valiant Gov’t Servs., LLC*, B-416488, Aug. 30, 2018, 2018 CPD ¶ 311 at 3. Further, price/past performance tradeoffs are permitted when they are reasonable and consistent with the solicitation. *Nomura Enter., Inc.*, B-277768, Nov. 19, 1997, 97-2 CPD ¶ 148 at 4; see *also Richen Mgmt., LLC*, B-417888, Nov. 6, 2019, 2019 CPD ¶ 383 at 2-3. Additionally, while an agency may not evaluate an offeror’s lack of past performance unfavorably, an agency may in its tradeoff analysis determine that highly rated past performance is more beneficial than a neutral past performance rating. *American Floor Consultants, Inc.*, B-294530.7, June 15, 2006, 2006 CPD ¶ 97 at 5; see *also CMC & Maintenance, Inc.*, B-292081, May 19, 2003, 2003 CPD ¶ 107 at 4.

On this record, we conclude that the source selection decision is unobjectionable. The record shows that the SSA did not evaluate Heartland’s lack of relevant past performance unfavorably, but rather reasonably considered RWD’s record of relevant past performance as more beneficial. AR, Tab 17, SSDD at 20. Indeed, the SSA

² Section 15.305(a)(2)(iv) of the FAR states, “[i]n the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.”

specifically stated, “[a]lthough I will not penalize any offeror for lacking relevant past performance information, I determine for this procurement that the Satisfactory Confidence rating of RWD has more value than the Neutral Rating of a lower-priced offeror.” *Id.* Additionally, the SSA observed that the quality of RWD’s past performance was extremely advantageous to the agency. *Id.*

While Heartland complains that DHA necessarily evaluated the firm’s lack of past performance unfavorably by evaluating RWD’s record of past performance as advantageous, we do not find that position persuasive. See Protest at 5; Comments at 4. As noted above, our decisions explain that, in the context of a tradeoff analysis, an agency may reasonably give greater value to past performance ratings that are higher than neutral ratings. *American Floor Consultants, supra* at 4; *CMC & Maintenance, supra* at 3. Thus, we do not find the agency’s tradeoff analysis objectionable because DHA reasonably could consider RWD’s record of relevant past performance as distinguishing when comparing RWD’s and Heartland’s proposals.

Additionally, we note that the agency’s price/past performance tradeoff determination was consistent with the terms of the solicitation. The RFP provided that the past performance factor was more important than the price factor. RFP amend. 2 at 10. Thus, the agency reasonably could conclude that RWD’s record of relevant past performance was worth the price premium. *Valiant Gov’t Servs., supra* at 3; see also *Richen Mgmt., supra* at 2-3. Accordingly, we deny this protest allegation.

The protest is denied.

Thomas H. Armstrong
General Counsel