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Decision

Matter of: Barquin Solutions

File: B-419315.2; B-419315.3

Date: January 19, 2021

Frank V. Reilly, Esq., Frank V. Reilly Attorney at Law, for the protester.
Sharon L. Larkin, Esq., and James M. Larkin, Esq., The Larkin Law Group LLP, for Akamai Technologies, Inc., the intervenor.
Stephan Piel, Esq., Department of Defense, for the agency.
Michael Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency unreasonably evaluated quotations is denied where the record reflects that the evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Barquin Solutions, a small business of Washington, D.C., challenges the award of a contract to Akamai Technologies, Inc., of Cambridge, Massachusetts, under request for quotations (RFQ) HQ0034-20-R-0264 issued by the Department of Defense, Washington Headquarters Services, for domain name system (DNS) resolver services. The protester alleges that the agency erred in its evaluation of quotations, and also should have referred the company to the Small Business Administration (SBA) for a certificate of competency (COC) review rather than excluding it from the competition.

We deny the protest.

BACKGROUND

On July 22, 2020, the agency issued the RFQ as a combined synopsis/solicitation for commercial services using the simplified acquisition procedures of Federal Acquisition Regulation (FAR) part 13. Contracting Officer's Statement and Memorandum of Law

(COS/MOL) at 1-2. The RFQ sought to procure DNS resolver¹ services, as well as a system to store and analyze various information logged by the DNS resolver, which the RFQ referred to as a “data lake.” *Id.* The RFQ contemplated the award of a single fixed price contract with a 1-year base period and two 1-year option periods. Agency Report (AR) at 67.²

The solicitation provided for a three-phased competition, with each phase focusing on a different evaluation factor. AR at 24-25. In the first phase, vendors would submit written technical solutions, which the agency would evaluate to assess whether they addressed the RFQ’s minimum requirements. *Id.* Vendors with solutions that met the RFQ’s minimum requirements were invited to the second phase, during which the vendors would provide a live technical usability demonstration. *Id.* Finally, the agency determined which vendors were “viable competitors” based on the first two phases, and invited those vendors to the third phase in which they would submit pricing. *Id.* at 25.

Relevant to this protest, the RFQ provided that, during the usability demonstration, vendors would need to demonstrate their ability to meet each of seven tasks with their proposed solution by “walking government evaluators through how each requirement would be completed using an in-production service, a prototype, or wireframes.” AR at 24. Additionally, the RFQ provided that the demonstration and solution would be evaluated “on how well [a] user can accomplish a given task in a reasonable amount of time and with minimal cognitive strain,” and “from a user-centered design/human factors perspective.” *Id.* at 24-25.

The agency received seven written technical solution quotations in response to the RFQ, including quotations from the protester and intervenor. COS/MOL at 3. On the basis of its written technical solution, the protester was invited to the second phase to conduct a usability demonstration. *Id.* The demonstration was conducted by videoconference on September 18, 2020 and was recorded. *Id.* Following the presentation, the agency concluded that the protester did not propose a viable solution, primarily based on usability factors and the fact that certain parts of the protester’s solution were not demonstrated because they were incomplete. *Id.* Accordingly, the agency did not invite the protester to submit pricing for phase three, and the protester was not considered in the agency’s best-value tradeoff. *Id.*

¹ A DNS resolver service translates internet domain names (e.g. www.gao.gov) into the numeric internet protocol addresses needed to connect to internet resources, in much the same way a phone book permitted one to find a phone number using a person’s name. See COS/MOL at 1.

² Because the agency report document contains several separately paginated documents, citations are to the Adobe pdf pagination.

The agency conducted a best-value tradeoff among vendors in phase three, and concluded that the intervenor's quotation represented the best value to the government. COS/MOL at 4. On September 30, 2020, the agency notified the protester of the agency's award decision, and the protester requested and received additional information from the agency. *Id.* This protest followed.

DISCUSSION

The protester argues that the agency erred in excluding it from the competition in several respects.³ First, the protester contends the agency's technical evaluation of its presentation is flawed and unsupported by the record. Protest at 2-7. Second, the protester argues the agency's decision that it was not a viable competitor for the third phase of the competition constituted a *de facto* responsibility determination that should have resulted in a referral to SBA for a COC.⁴ Comments and Supp. Protest at 8-9. We address these arguments in turn.

³ The protester also initially challenged the agency's best-value tradeoff decision. Protest at 7. However, the record is clear that the protester was excluded from the competition after phase two, so was not considered in the best-value tradeoff decision. See COS/MOL at 3. Subsequently, the protester withdrew this protest ground. Comments and Supp. Protest at 1.

⁴ The protester makes other collateral arguments in its pleadings. While those arguments are not specifically addressed in this decision we have considered them and determined they do not provide a basis to sustain the decision. For example, the protester contends that various positive remarks made by agency representatives during the demonstration, such as "great answer," "fantastic," or "cool," showed that the agency had no concerns with the protester's demonstration and that the agency's subsequent negative evaluation of the protester's demonstration was irrational. See Comments and Supp. Protest at 1-2.

However, as the agency correctly notes, isolated comments made by evaluators during the demonstration do not constitute the agency's final or considered evaluative judgments. See *SRA International, Inc.*, B-407709.5, B-407709.6, Dec. 3, 2013, 2013 CPD ¶ 281 at 11 (concluding that the relevant inquiry is not whether an agency's final evaluation conclusions are consistent with earlier evaluation conclusions, but rather whether the final conclusions are reasonable and consistent with the stated evaluation criteria). Moreover, after review of the recording, we see no meaningful inconsistency between the evaluator's comments during the demonstration and the agency's subsequent evaluation. Specifically, the demonstration video reflects that the evaluators repeatedly asked the protester to demonstrate aspects of its proposed solution that ultimately formed the basis of the agency's negative evaluation judgments, and the protester did not effectively demonstrate those aspects of its solution or allay the agency's concerns. See, e.g., Barquin Demonstration Video at 21:00-22:14, 52:55.

Evaluation

The protester contends that the agency's evaluation was flawed in two primary respects. Protest at 2-7. First, with respect to the agency's evaluation of the solicitation's data lake requirements, the agency concluded that the protester demonstrated several tasks in an advanced user interface suitable for only technical users, but did not demonstrate those tasks in a user interface suitable for non-technical users. AR at 164. The protester argues that this conclusion was flawed because it clearly explained how its standard user interface would look during the demonstration. See Protest at 4-5; Comments and Supp. Protest at 2-4. Second, the protester argues that the agency erred in concluding that its proposed user interface lacked certain features, because its user interface actually included the features in question. Protest at 2-7.

The evaluation of quotations is a matter within the agency's discretion. *Advisory Technical Consultants*, B-416981.3, June 4, 2019, 2019 CPD ¶ 209 at 3. When reviewing a protest challenging an agency's evaluation, our Office will not reevaluate quotations, but instead, will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. *OPTIMUS Corp.*, B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester's disagreement with an agency's judgment, without more, is insufficient to establish that an agency acted unreasonably. *Converge Networks Corp.*, B-415915.2, B-415915.3, Aug. 20, 2018, 2018 CPD ¶ 334 at 5.

With respect to the protester's argument that it explained how its user interface would look, the solicitation specifically required that the data lake service include a web portal for users and also required vendors to demonstrate various functions of their proposed solution using an in-production service, a prototype, or wireframes. AR at 24, 117. While the solicitation did not require the presentation of a finished product, the solicitation did require vendors to provide, at minimum, a wireframe of their proposed solution so the agency could evaluate the proposed interface. *Id.*

It is uncontested that during the presentation the protester demonstrated several of the data lake tasks using a complex query interface that the agency concluded would not be suitable for non-technical users. COS/MOL at 7. Moreover, the agency repeatedly asked the protester if there was a more user-friendly interface available for the data lake. See COS/MOL at 8-9 (*citing* Barquin Demonstration Video at 21:00-22:14). In response, the protester conceded that it had not yet developed a standard user interface to demonstrate, but intended to build one that emulated the look and feel of the Cloudflare service it proposed for the DNS resolver portion of its presentation. *Id.*

The protester argues that this explanation, combined with the screenshots of the Cloudflare DNS Resolver interface shown in an earlier portion of the presentation clearly explained how its user interface would look. Protest at 4-5; Comments and Supp. Protest at 2-4. We do not agree. While screenshots of a web interface for an entirely different service can provide a general idea of how the ultimate user interface

might look, they were not specific to the tasks or workflows that the solicitation required the protester to demonstrate for the agency evaluators. Accordingly, the agency's conclusion that the protester did not demonstrate how the data lake user interface would work for non-technical users was reasonable, because the protester's presentation did not include a prototype or wireframes of the protester's proposed user interface for non-technical users.

In short, while the solicitation did not require the demonstration of a finished user interface, the solicitation did require vendors to demonstrate their proposed interfaces, however notional. The only interface demonstrated by the protester was an advanced user interface not suitable for non-technical users, and the agency properly evaluated the protester on that basis. We see no basis to conclude that the agency erred in this respect.

With respect to the protester's argument concerning the agency's conclusion that its interface lacked certain features, this argument is also without merit. For example, the agency evaluators made a negative comment concerning the protester's solution because the DNS block/allow list was not shown on the same screen as the option to add a new DNS block, which was not as user friendly as other solutions demonstrated. AR at 163. The protester contends that the agency erred because its proposed software solution for this portion of the requirement is capable of showing the block list on the same screen as the option to add a DNS block, and the agency evaluators did not ask to see that capability. Protest at 3-4.

The agency argues in response that, during the protester's demonstration, the interface the protester showed did not show the block list on the same screen as the add block option, and the agency based its evaluation on what was demonstrated. COS/MOL at 6. The agency's evaluation is unobjectionable. The fact that the protester's software may have been capable of displaying a more user friendly configuration that was not demonstrated is irrelevant, because the protester chose to demonstrate the less usable configuration. The responsibility for providing a thorough, persuasive oral presentation falls on the vendor, and the solicitation in this case was clear that the agency was evaluating solutions for usability. See, e.g., *Leidos Innovations Corp.*, B-415514, *et al.*, Jan. 18, 2018, 2018 CPD ¶ 88 at 19. The protester has not convincingly alleged that its demonstration showed this capability, so we see no basis to conclude that the agency erred in this regard.⁵

⁵ In this connection, the protester notes that the agency failed to record the first few minutes of the demonstration due to a technical error, and, once the recording began, several of the protester's slides were also not recorded. Comments and Supp. Protest at 2, 7. The protester contends that, for example, its slides during this portion of the presentation dealing with DNS blocking are missing from the recording. *Id.* The protester implies, but does not clearly state, that its slides would support its position in this regard, and argues that the "most vital" information is missing from the record. *Id.*

Responsibility

Finally, the protester argues that its exclusion from the competition was, in effect, a negative responsibility determination. Comments and Supp. Protest at 8-9. Specifically, the protester argues that the agency's determination that the protester was not a "viable competitor" on a pass/fail basis is, essentially, a responsibility assessment. Supp. Comments at 1-4. The agency disagrees, and asserts that its judgment was founded entirely on Barquin's demonstrated technical approach, not on Barquin's ability or capacity to do the work. Supp. MOL at 1-2.

Where an agency finds the proposal of a small business to be unacceptable under a responsibility-related factor, that is, a factor pertaining to its ability to perform, such as whether it has adequate corporate experience or production equipment and facilities, the determination is essentially one of nonresponsibility, meaning that referral to the SBA, which has the ultimate authority to determine the responsibility of small business concerns, is required. *Joanell Labs., Inc.; Nu-Way Mfg. Co., Inc.*, B-242415.8 *et al.*, Apr. 15, 1992, 92-1 CPD ¶ 369 at 6; *Sanford & Sons Co.*, B-231607, Sept. 20, 1988, 88-2 CPD ¶ 266 at 2-3. Where an agency rejects a proposal as technically unacceptable on the basis of factors not related to responsibility, as well as responsibility-related ones, referral to the SBA, however, is not required. *Paragon Dynamics, Inc.*, B-251280, Mar. 19, 1993, 93-1 CPD ¶ 248 at 4.

As discussed above, the record clearly reflects that the agency's negative technical findings were based on the protester's failure to adequately demonstrate a user

While the available video recording does begin after the protester had begun its introductory presentation, the actual technical demonstration appears to begin more than seven minutes after the start of the available video recording. See Barquin Demonstration Video at 7:15-7:20 ("If you have no questions, we will start the demonstration"). However, several of the protester's demonstration slides do appear to be missing from the recording. In this regard, the intervenor noted that, while the protester implied that the missing slides were vital to the protest, the protester had not produced the slides in question. Intervenor's Supp. Comments at 3-4. In response, protester's counsel suggested that, because the demonstration video was subject to the protective order, its client had not seen the demonstration video and therefore "[n]obody knows how many slides are missing." Supp. Comments at 6. Protester's counsel additionally alleged that intervenor's counsel's statements were false and made in bad faith, and requested leave to make an additional filing responding to the allegedly false statements. *Id.* We granted the protester's request to make an additional filing, but the protester neither produced its slides, explained why it could not produce them, nor explained in what way the intervenor's arguments were faulty. See Protester's Response to Intervenor's Supp. Comments at 1. Our Regulations obligate a protester to set forth a detailed statement of the legal and factual grounds of protest, including copies of relevant documents. 4 C.F.R. § 21.1(c)(4). Because the protester's argument relies on evidence that is in its own possession, but that it has declined to provide, we dismiss this aspect of the protester's arguments.

interface for non-technical users or on features of the protester's proposed solution that were not actually demonstrated during its presentation. Our decisions have made clear that evaluation judgments based on a failure to adequately explain or demonstrate a technical approach is not a responsibility determination. See *Tyonek Worldwide Services, Inc; DigiFlight, Inc.*, B-409326 *et al.*, Mar. 11, 2014, 2014 CPD ¶ 97 at 13. While a determination that a vendor is not a viable competitor may, in certain instances, be a responsibility determination, the agency here clearly evaluated the protester's technical approach, not its ability to perform, and a referral to the SBA was not required.

The protest is denied.

Thomas H. Armstrong
General Counsel