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Decision

Matter of: TeleCommunication Systems, Inc.

File: B-419323.2

Date: January 19, 2021

Laurel A. Hockey, Esq., Daniel J. Strouse, Esq., and John J. O'Brien, Esq., Cordatis LLP, for the protester.

Richard J. Conway, Esq., and Michael J. Slattery, Esq., Blank Rome LLP, for Envistacom LLC, the intervenor.

Jennifer Janulewicz, Esq., and Matthew R. Wilson, Esq., Department of the Army, for the agency.

Todd C. Culliton, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency unreasonably evaluated the protester's proposal is denied where the record shows that the evaluation was consistent with the terms of the solicitation and applicable procurement statutes and regulations.

DECISION

TeleCommunication Systems, Inc. (Comtech), of Annapolis, Maryland, protests the award of a task order contract to Envistacom, LLC, of Atlanta, Georgia, under request for task execution plan (RTEP) No. W15P7T-20-F-9108, issued by the Department of the Army for global field support representative support services. Comtech asserts that the Army unreasonably evaluated its quotation.

We deny the protest.

BACKGROUND

On May 20, 2020, the Army issued the RTEP against its Global Tactical Advanced Communication Systems II indefinite-delivery, indefinite-quantity (IDIQ) contract to procure operation, maintenance, and sustainment services of several communication systems/networks, including Deployable Ku Earth Terminals and Micro Very Small

Aperture Terminals.¹ Agency Report (AR), Tab 29, RTEP, Performance Work Statement (PWS) at 2. The RTEP contemplated the award of a cost-plus-fixed-fee task order to be performed over a 1-year base period, and two 1-year option periods. AR, Tab 25, RTEP, amend. 1 at 12-13.

Vendors were instructed to submit technical, past performance, and cost volumes as parts of their quotations. RTEP, amend. 1 at 5-17. The technical volume was comprised of five parts: manpower, subcontracting, transition-in plan, management plan, and recruitment/retention and quality assurance plan. *Id.* at 5-8.

The evaluation proceeded in two parts. First, the Army would assess quotations under two “Gate Criteria.” RTEP, amend. 1 at 17-18. Gate 1 contemplated a compliance check to determine whether quotations contained all of the required information. *Id.* at 18-19. Gate 2 evaluated whether each vendor’s recruitment/retention and quality assurance plan was “acceptable” based on whether the plan met minimum requirements and demonstrated a thorough understanding of the technical requirements. *Id.* at 18. Any quotation receiving an “unacceptable” rating under the gate criteria would be considered ineligible for award. *Id.*

Quotations satisfying the gate criteria would then be evaluated for past performance and cost. RTEP, amend. 1 at 19. Award would be made on a best-value tradeoff basis considering only the past performance and cost factors, where the performance factor was to be considered significantly more important than cost factor. *Id.*

Seven vendors, including Comtech and Envistacom, submitted quotations prior to the June 23, 2020, closing date. AR, Tab 57, Source Selection Decision Document (SSDD) at 3. The Army evaluated Comtech’s quotation as “unacceptable” under gate 2 because it did not specifically address retention techniques for personnel located in the United Kingdom, or retention techniques for Network Support, System Administrator Tier II and III, and Network Administrator Tier II and III support in Iraq, Kuwait, or Bahrain. AR, Tab 56, Comtech Gate Evaluation Report at 3-5.² As a result, the Army did not evaluate Comtech’s quotation under the past performance or cost factor, or

¹ Deployable Ku Earth Band Terminals augment the Army’s tactical communications network infrastructure, and provide network hub services for disadvantaged forward operating bases. Department of the Army, Satellite Communications: DKET, <https://peoc3t.army.mil/tn/dket.php> (last visited, Jan. 5, 2021). The Micro Very Small Aperture Terminal provides expeditionary satellite communications in remote locations, can be operated by a single general purpose user, and may be packed in a small backpack or single commercial aircraft overhead transit case. Department of the Army, Satellite Communications: Micro-VSAT, <https://peoc3t.army.mil/tn/mvsat.php> (last visited, Jan. 5, 2021).

² The gate evaluation report is unnumbered, and therefore references are to the Adobe PDF page numbers.

consider the firm's proposal as part of the tradeoff analysis. AR, Tab 57, SSDD at 8. Ultimately, the Army evaluated Envistacom's quotation as offering the best value, and issued the task order contract to that firm. *Id.* at 14; Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 11-12. After Comtech received its debriefing, the firm filed this protest with our Office.³

DISCUSSION

Comtech asserts that the Army unreasonably evaluated its quotation as "unacceptable" under the second of the two gate criteria. Protest at 13-22. The firm argues that its quotation addressed retention strategies for personnel located in the United Kingdom, as well as network support, system administrator, and network administrator personnel located in Iraq, Kuwait, and Bahrain, when describing the firm's general retention strategy, and the firm's regional European strategy.⁴ Comments at 7-11. The Army responds that these retention techniques did not satisfy the RTEP requirement to identify specific retention techniques for particular locations and positions. COS/MOL at 13-19.

In reviewing protests of awards in a task order competition, we do not reevaluate quotations but examine the record to determine whether the evaluation was reasonable and consistent with the solicitation's evaluation criteria and applicable laws and regulations. *22nd Century Techs., Inc.*, B-417478.3, B-417478.4, Feb. 24, 2020, 2020 CPD ¶ 74 at 5.

The RTEP instructed vendors to "[d]escribe the overall procedures and policies that will be used to encourage retention of qualified personnel" as part of recruitment/retention and quality assurance plans. RTEP, amend. 1 at 8. The RTEP articulated challenges in filling and retaining personnel in certain locations, and in specific positions. *Id.* To address the Army's difficulty in retaining personnel in particular countries, the RTEP instructed vendors to "specifically address their approach for successful retention of qualified personnel for each location[.]" RTEP, amend. 1 at 8. Locations included: ISA Air Base, Bahrain; Jordan; Poland; United Kingdom; and, Germany. *Id.*

As to the Army's difficulty in retaining personnel in specific positions, the RTEP instructed vendors to "specifically address their approach for successful retention of qualified personnel for each specific position[.]" RTEP, amend. 1 at 8. Positions included: network support for remote locations such as Kuwait and Bahrain; nuclear

³ The awarded value of the task order at issue exceeds \$25 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts established under the authority in title 10 of the United States Code. 10 U.S.C. § 2304c(e)(1)(B).

⁴ In its protest, Comtech also argued that the agency should have conducted clarifications to enhance understanding of the firm's retention techniques. Protest at 22. Comtech withdrew this protest allegation in its comments. Comments at 2, n.2.

command control communication support; system administrator tier II and tier III support in Kuwait and Bahrain; and network administrator tier II and III support in Iraq, Kuwait, and Bahrain. *Id.*

When evaluating each firm's retention strategies as part of its gate 2 analysis, the RTEP advised that proposals must clearly meet the requirements and demonstrate a thorough understanding of the services to be provided. RTEP, amend. 1 at 18.

As referenced above, the Army evaluated Comtech's proposal as "unacceptable" because the Army determined that the firm did not specifically address retention techniques for personnel located in the United Kingdom, or retention techniques for network support, system administrator tier II and III, and network administrator tier II and III support in Iraq, Kuwait, or Bahrain. AR, Tab 56, Comtech Gate Evaluation Report at 3-5. On this record, we have no basis to object to the agency's evaluation.

First, our review confirms the agency's position that Comtech's quotation does not specifically address retention techniques for personnel located in the United Kingdom. See MOL at 14-15. Comtech's quotation describes a general retention strategy applicable to all personnel. See AR, Tab 54, Comtech Tech. Proposal at 39-41 (describing strong compensation, career advancement possibilities, mentorship programs, solid workplace culture, and an attractive benefits package). Additionally, Comtech's quotation describes a regional European retention strategy. *Id.* at 40 (recruiting personnel by selling the European lifestyle, and then retaining personnel through a strong European network). Neither strategy articulates a specific retention technique for personnel located in the United Kingdom as required by the RTEP. In this regard, one technique is applicable to all personnel, and the other technique describes a regional approach untailed to any particular anti-retention pressures present in the British labor market.

Moreover, we agree with the Army that the firm's European retention strategy can be interpreted as inapplicable to personnel located in the United Kingdom. MOL at 16. To illustrate, Comtech describes its European retention strategy as the following:

The biggest challenge we have experienced with recruiting for positions in Poland and Germany is the positions offer lower hours and not the same uplifts as many contractors have become accustomed to. During recruitment Comtech emphasizes the lifestyle of being in Europe with regular work hours to help incentivize employees. Comtech offers a financial bonus to employees who refer new hires, we have found our current employees in Europe have a network of associates specializing in communications support and are a good source for recruiting.

AR, Tab 54, Comtech Tech. Proposal at 40; see *also* Protest at 16-17. We think this retention strategy can be reasonably interpreted as applying only to the Polish and German labor markets because Comtech describes the strategy as addressing challenges identified in those labor markets, as opposed to any similar challenge

identified in the British labor market. Thus, we conclude that the Army reasonably concluded that Comtech's quotation failed to describe any specific retention techniques for personnel located in the United Kingdom.

Second, our review of the quotation confirms that Comtech did not articulate any retention strategies for the network support, system administrator tier II and III, and network administrator tier II and III positions in Iraq, Kuwait, and Bahrain, as required by the solicitation. RTEP, amend. 1 at 8. The quotation explained that Comtech has not experienced any retention problems for these positions during its course of performance as the incumbent contractor, and that it would continue to retain employees using its general retention strategy. AR, Tab 54, Comtech Tech. Proposal at 40 ("Comtech has not experienced the challenges stated in the RTEP for [the identified positions]. Comtech has consistently kept these and like positions filled at over [DELETED] to include Iraq and Afghanistan"). As above, the general retention strategy does not satisfy the RTEP's requirements because the RTEP required vendors to describe both their overall retention techniques, and specific retention techniques for particular positions. See Comments at 8-10.

Further, to the extent Comtech complains that complying with the solicitation would have required repeating its general retention strategy throughout the quotation, we think that argument reflects the firm's limited understanding of the requirement. See Comments at 9 ("Because Comtech intended to use the same approach across the board--for all positions and in all countries--it did not need to say anything further about specific positions, because to do so would result in Comtech repeating itself throughout its proposal by describing the same approach over and over again."). That argument misinterprets the RTEP, which plainly required vendors to articulate specific retention techniques for particular locations and positions, in addition to their general retention procedures and policies. RTEP, amend. 1 at 8. Accordingly, we deny the protest allegations.

The protest is denied.

Thomas H. Armstrong
General Counsel