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Decision

Matter of: Trace Systems, Inc.

File: B-419323

Date: January 14, 2021

James K. Kearney, Esq., Gary J. Campbell, Esq., and Lidiya Kurin, Esq., Womble Bond Dickinson (US) LLP, for the protester.

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

Alexa B. Bryan, Esq., and Jennifer A. Janulewicz, Esq., Department of the Army, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated the protester's and awardee's past performance is denied where the evaluation was reasonable and consistent with the solicitation's evaluation criteria.

DECISION

Trace Systems, Inc., of Vienna, Virginia, a small business, protests the issuance of a task order to Envistacom, LLC, of Atlanta, Georgia, under request for task execution plans (RTEP) No. W15P7T-20-F-9108, issued by the Department of the Army, Army Materiel Command, under the Global Tactical Advanced Communication Systems II (GTACS II) multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contracts, for operation, maintenance and sustainment services for several communication systems and networks including tactical and strategic antenna systems. Trace contends that the Army misevaluated both firms' past performance and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The RTEP, issued May 20, 2020, contemplated the issuance of a single task order consisting of "Cost-Plus-Fixed-Fee (CPFF) Term and Cost efforts" for 36 months (a base year and two option years). Agency Report (AR), Tab 3, RTEP, at 1. The RTEP

task order would be issued to the vendor whose task execution plan (TEP) was acceptable under two “gate” criteria, technically acceptable, and provided the best value as determined by a past performance-cost tradeoff. *Id.* at 17.

The scope of the required work was described in an accompanying performance work statement (PWS). AR, Tab 29, RFP amend. 1 attach. 9, PWS, at 2. The PWS provided a detailed description of the agency’s requirement for services within the United States and at least 31 listed countries, several of which are in the Middle East. *Id.* at 3.

The RTEP directed vendors to submit a TEP consisting of eight elements: a technical volume, a past performance volume, a cost volume, a small business participation plan, a system for award management (SAM.gov) report, an organizational conflict of interest (OCI) declaration and mitigation plan, an Afghanistan business license declaration, and a continuation of essential contractor services plan. RTEP at 3.

For the past performance factor, the RTEP directed vendors to provide information about recent relevant contracts and task orders with the Department of Defense.¹ The RTEP listed seven critical capabilities to which each vendor’s past performance would be compared in assessing the “relevancy” of past performance. Among these, critical capability No. 3 was Army Strategic Command (ARSTRAT) “certification testing and generation of reports.” *Id.* The RTEP specifically requested “experience performing testing for ARSTRAT certification,” including the radio frequency band for which the vendor had performed testing, and the vendor’s involvement in generating a report based on the testing results. *Id.*

For critical capability No. 7, the RTEP indicated that relevant past performance would involve “OCONUS [outside continental United States] FSR [field support representative] support for both tactical and strategic networks” in all 31 countries encompassed in the PWS. *Id.* at 9-10. The RTEP explained that past performance that showed personnel deployed to more countries could be viewed as more relevant than performance showing deployments to fewer countries. *Id.* at 10. In assessing the relevance of past performance overall, vendors whose past performance demonstrated more of the critical capabilities needed for this procurement could be considered to have more relevant past performance than vendors whose past performance demonstrated fewer critical capabilities. *Id.*

After receiving and evaluating the initial proposals, the Army sent vendors, including Trace, questions. The Army asked Trace whether its past performance showed elements of the ARSTRAT certification testing and reporting critical capability (critical capability No. 3). AR, Tab 95, at Questions Letter to Trace, at 3-4. Upon reviewing Trace’s response, the evaluators recognized that Trace’s past performance demonstrated compliance testing for already-certified systems, rather than ARSTRAT certification testing. AR, Tab 1, Memorandum of Law (MOL) at 11. The Army then sent

¹ The RTEP advised vendors that “[o]nly Past Performance information for Department of Defense (DoD) contracts will be evaluated.” *Id.* at 10.

a second round of questions to ask Trace to show that its past performance demonstrated both testing for ARSTRAT certification and generating a report based on those testing results. AR, Tab 107, Second Questions Letter to Trace, at 2-3.

After reviewing Trace's responses and those from other vendors, the Army finalized its evaluation. With respect to Trace's past performance, the Army determined that the firm had not demonstrated the critical capability for ARSTRAT certification testing and preparation of reports (critical capability No. 3). The agency recognized the experience that Trace had described in its proposal and responses to the agency's questions, but determined that ARSTRAT certification testing was more complex, and required a higher level of support from the contractor than the services that Trace had identified. AR, Tab 114, Final Past Performance Evaluation for Trace, at 46.

Under the critical capability regarding performance of FSR services in the 31 countries (critical capability No. 7) listed in the PWS, the Army detailed the countries involved in each past performance reference, and concluded that each of Trace's past performance references showed that it had partially demonstrated the critical capability, and that it had partially demonstrated the capability overall. *Id.*

The source selection authority (SSA) considered the evaluations and prepared a memorandum of source selection decision, in which she discussed the evaluations and her tradeoff judgments. With respect to past performance, the SSA noted that both Trace and Envistacom had been rated satisfactory confidence, both had submitted references that were relevant, and both had an overall record of good performance. AR, Tab 119, Memorandum of Source Selection Decision, at 11-12. With respect to the relevance of their performance records, the SSA noted that Trace had demonstrated five of the critical capabilities, partially demonstrated one, and had not demonstrated one, while Envistacom had demonstrated six of the critical capabilities, and partially demonstrated one. *Id.* at 13.

Ultimately, the SSA decided that Envistacom's past performance, which demonstrated all of the "service[-]based critical capabilities (critical capabilities [Nos.] 1-6)," provided more confidence of successful performance than Trace's. *Id.* The SSA noted that Envistacom's evaluated price of \$234.9 million was lower than Trace's at \$242.8 million, and selected Envistacom's TEP as the best value. *Id.* Following the agency's announcement of the award and a debriefing, Trace filed this protest.²

² The task order was valued at \$235 million, so this protest is within our jurisdiction to review protests related to the issuance of orders valued over \$25 million under multiple-award IDIQ contracts that were awarded under the authority of Title 10 of the United States Code. 10 U.S.C. § 2304c(e)(1)(B).

DISCUSSION

Partial Dismissal

Trace protested multiple aspects of the evaluation. We address first the Army's argument that Trace's protest lacked a factual and legal basis. The Army's dismissal request argues that Trace failed to provide a valid factual and legal basis for specific challenges. After considering the parties arguments, we determined that dismissal was proper for three arguments. Those were, in essence, that the Army was not permitted to distinguish between vendors that had received the same past performance adjectival rating, that the agency had failed to consider contractor performance assessment reporting system (CPARS) ratings appropriately, and that it was improper for the Army's evaluation of past performance to consider Envistacom's performance under other transaction authority (OTA) agreements. We concluded that those claims should be dismissed as lacking a factual or legal basis, as discussed below. 4 C.F.R. § 21.1(c)(4) and (f); *Midwest Tube Fabricators, Inc.*, B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3.

After considering the parties' dismissal arguments, the GAO attorney explained why the protester's arguments should be dismissed. First, Trace did not show a basis to assert that the RTEP prevented the Army from distinguishing between vendors with the same adjectival rating. Contrary to Trace's position, the same adjectival ratings do not necessarily imply equality, so an agency may properly consider specific advantages that make one proposal of higher quality than another. *Great Lakes Towing Co.*, B-408210, June 26, 2013, 2013 CPD ¶ 151 at 4. Second, Trace quoted a statement in its debriefing that it had "consistently demonstrated good quality," the firm argued that the debriefing revealed a misevaluation because CPARS only allows ratings of exceptional, very good, satisfactory, marginal, or unsatisfactory and Trace contended that its CPARS ratings were actually "[v]ery [g]ood," on average. Protest at 16. This second issue lacked a sufficient factual basis because it essentially raised an insignificant issue over the debriefing language. See *Management Sys. Int'l, Inc.*, B-409415, B-409415.2, Apr. 2, 2014, 2014 CPD ¶ 117 at 6-7 (challenges to an evaluation that "amount to nothing more than quibbling with the minutia of the agency's scoring of proposals" do not provide a basis to sustain the protest). Third, we found no basis for Trace's claim that Envistacom's past performance on OTAs could not be considered, which Trace based on a technical distinction between an OTA and a procurement contract. In our view, Trace's argument mischaracterized the RTEP criteria for the past performance evaluation, which did not require the Army to disregard OTA past performance. GAO Notice of Ruling on Partial Dismissal Request, at 1-2.

Evaluation of Past Performance

The remaining ground of protest raised by Trace argues that the Army misevaluated Trace's past performance, misevaluated the quality of Trace's past performance as equal to Envistacom's, and lacked a reasonable basis to ultimately conclude that Envistacom's past performance overall was superior. Protester's Comments at 2-3.

With respect to the evaluation of Trace's past performance, the firm contends that the Army unreasonably determined that Trace had demonstrated only five of the seven critical capabilities, but had not demonstrated the critical capability of performing ARSTRAT certification testing and reporting (critical capability No. 3), and had only partially demonstrated the critical capability of performing FSR support in all 31 countries (critical capability No. 7).

An agency's evaluation of past performance, including its consideration of the relevance, scope, and significance of a firm's performance history, is a matter of agency discretion which we will not disturb unless the agency's assessments are unreasonable or inconsistent with the solicitation criteria. *Paragon Sys., Inc.*, B-414515, B-414515.2, June 29, 2017, 2017 CPD ¶ 240 at 9. Where a protester challenges an agency's past performance evaluation, our Office will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations, and to ensure that the agency's rationale is adequately documented. *Id.*

On the first point, Trace argues that its past performance showed full, or at least partial, demonstration of the ARSTRAT certification requirement, most significantly through its past performance maintaining or upgrading equipment that had already been ARSTRAT certified. Protest at 13. Trace explains that the maintenance process required compliance testing, during which Trace contends it "inevitably performed many of the steps required in conducting certification testing." *Id.* Trace also contends that the Army overlooked Trace's role in maintaining certification throughout the field repair or upgrade, which required it to perform activities that are also required for ARSTRAT certification. *Id.* Further, Trace contends that the Army misinterpreted the PWS when the agency analogized the PWS to the requirements for actual ARSTRAT certification, which the firm contends are distinct, and that the alleged error in turn affected the Army's judgment that Trace did not demonstrate the associated critical capability. *Id.* at 14.

The Army responds that the evaluation appropriately recognized that Trace's performance of maintenance and upgrades on certified equipment did not meet the critical capability of demonstrating the level of certification testing and reporting that the PWS required. Consequently, the agency argues that Trace was properly evaluated as not demonstrating past performance in that critical capability.

Our review of the record provides no basis to question the Army's evaluation judgment in this regard. Despite Trace's insistence, the record shows that the agency had a reasonable basis to distinguish between the performance of maintenance and upgrades to certified equipment, and the critical capability of performing testing and reporting that would be needed to obtain certification. The RTEP identified the critical capability as "*certification* testing and generation of reports," and specifically requested vendors to identify "experience performing testing *for ARSTRAT certification*" and "demonstrate generating a report based on the testing results." RTEP at 9 (emphasis added). In applying these criteria, the Army reasonably concluded that Trace's performance of maintenance and upgrade services on equipment with a preexisting certification did not

demonstrate the critical capability. Accordingly, we have no basis to question the Army's evaluation.

Second, Trace argues that the Army misevaluated the firm's past performance. Specifically, the firm contends the agency allegedly failed to consider the value of Trace's performance in 25 of the 31 countries (that is, if all of its references were aggregated), and consequently failed to distinguish between the past performance of Trace and Envistacom when the agency characterized both as partially demonstrating the OCONUS support critical capability. Protest at 16; Protester's Comments at 12-13. Trace argues that it performed support services in more countries than Envistacom in aggregate, so the assessment of both firms as partially demonstrating the associated critical capability has failed to recognize Trace's superiority under that critical capability. Protest at 16.

The Army responds that its evaluation of past performance was reasonable. With respect to the critical capability of performance of OCONUS FSR services in 31 countries, the agency argues that the characterization of both firms as partially demonstrating the critical capability was accurate. The Army explains that its past performance review assessed each contract or task order separately, which showed that on each of the contracts it cited Trace had provided FSR services in fewer than half of the 31 countries identified in the PWS. The Army argues that this fact supported its view that none of Trace's past performance showed that its past performance had essentially the same scope and complexities as the global effort required by the PWS here. The agency also notes that Envistacom's past performance under the same critical capability was evaluated by the same standard used to evaluate Trace's past performance. In addition, because each of Envistacom's references also showed performance in fewer than half of the 31 countries in the PWS, the agency evaluated it as having partially demonstrated the critical capability. AR, Tab 1, Memorandum of Law, at 32.

Our review of the record again provides no basis to question the Army's evaluation judgment regarding both Trace's and Envistacom's partial demonstration of performance of services in all 31 countries under that critical capability. Contrary to Trace's contention that the Army overlooked Trace's advantage in the number of countries in which it had provided services--in aggregate--the record shows that the Army reasonably assessed each past performance reference individually and in considerable detail. The evaluation identified the countries in which Trace had provided services, including noting countries that were not those set forth in the PWS. While Trace would have preferred for the evaluation to aggregate all references for purposes of this aspect of the evaluation, its objections do not show that the agency's approach was unreasonable, inconsistent with the RTEP, or inconsistent with the evaluation of Envistacom. The evaluation reasonably found that each of Trace's efforts had partially demonstrated performance in the 31 countries listed in the PWS, so the determination that overall Trace had partially demonstrated the critical capability was reasonable.

Trace's arguments also do not show that the agency erred in applying the same approach to evaluating Envistacom's past performance under the same criteria. As with

Trace, and as discussed above, the Army determined that Envistacom's references, assessed individually, partially demonstrated the critical capability, and thus its proposal partially demonstrated the critical capability for performing in all 31 countries overall. Although Trace contends that the differences in the number of countries where Trace and Envistacom have performed in the past should have been treated as a significant advantage for Trace, the record shows that the SSA considered the number of countries in aggregate for each firm, but explained that her judgment of Envistacom's advantage was based on its fully demonstrating the other six critical capabilities. Trace's disagreement with the SSA's well-reasoned and consistent judgment provides no basis to sustain the protest.³

The protest does not show that the evaluation of either Trace or Envistacom was unreasonable, or that the SSA's judgment that Envistacom's past performance was superior to Trace's and that it provided the best value at a lower evaluated cost/price, was unreasonable.

The protest is denied.

Thomas H. Armstrong
General Counsel

³ To the extent that Trace argues the SSA improperly noted as significant that both Trace and Envistacom had shown performance in several of the "most important locations," which were the listed Middle Eastern countries, we see no prejudice to Trace. Protester's Comments at 13-15; AR, Tab 119, Memorandum of Source Selection Decision, at 8. We see no basis to conclude that the source selection decision would have been different without the remark, or that Trace was harmed by its presence. Competitive prejudice is an essential element of a viable protest; where a protester fails to demonstrate that, but for the agency's actions, it would have a substantial chance of receiving award, there is no basis for finding prejudice, and our Office will not sustain the protest. *Smartronix, Inc.; ManTech Advanced Sys. Int'l, Inc.*, B-411970.9 *et al.*, Dec. 9, 2016, 2016 CPD ¶ 362 at 10.