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Decision

Matter of: Pioneer Credit Recovery, Inc.

File: B-419599; B-419599.2

Date: June 1, 2021

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Eric M. Steinberg, Esq., Richard L. Hatfield, Esq., and Jonathan D. Tepper, Esq., Department of the Treasury, for the agency.

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DIGEST

Protest challenging the agency's evaluation of quotations and best-value tradeoff is denied where the evaluation and source selection decision was reasonable and consistent with the solicitation.

DECISION

Pioneer Credit Recovery, Inc., of Horseheads, New York, protests the issuance of three task orders to three vendors¹ under request for quotations (RFQ) No. 2032H5-20-Q-00079, issued by the Department of the Treasury, Internal Revenue Service (IRS), for private debt collection (PDC) services. The protester challenges numerous aspects of the agency's evaluation and award decision.

We deny the protest.

BACKGROUND

¹ The three successful vendors were identified as: The CBE Group, Inc. of Waterloo, Iowa; Coast Professional, Inc. of Geneseo, New York; and Continental Service Group, Inc. dba ConServe of Fairport, New York. Agency Report (AR), Tab E.2, Award Decision at 22.

On September 30, 2020, the agency issued the RFQ under the procedures of Federal Acquisition Regulation (FAR) subpart 8.4 to six vendors holding General Services Administration, Federal Supply Schedule (FSS), Professional Services Schedule Financial Services, North American Industry Classification System (NAICS) code 561440-Debt Collection contracts. AR, D.2, RFQ amend. 1 at 1-2.² The RFQ contemplated the establishment of a maximum of three task orders, each of which would have a 1-year base period, and four 1-year option periods. *Id.* at 8.

The solicitation provided for award on a best-value tradeoff basis, considering the following evaluation factors, listed in descending order of importance: technical approach; management approach, organizational structure and quality control (QC); and past performance. *Id.* at 82. The solicitation stated that under the technical factors of technical approach and management approach, organizational structure and quality control, quotations could receive the adjectival ratings of excellent, good, satisfactory or unsatisfactory. *Id.* at 82-83. Under the past performance factor, the quotations could receive an adjectival rating of excellent, good, satisfactory, unsatisfactory or neutral. *Id.* at 83.

The solicitation required that each vendor propose a fixed commission rate based on the amounts actually collected. *Id.* at 81. The price factor would be determined by each vendor's evaluated commission rate. *Id.* at 83-84. The solicitation stated that the technical factors when combined, were more important than the commission rate. *Id.* at 84. As relevant to this protest, the RFQ also warned vendors that as quotations became more technically equal, the commission rate would increase in importance in the best-value determination. *Id.*

Prior to the November 24 closing date, the agency received quotations from all six vendors, including Pioneer, Coast Professional, ConServe, and CBE Group. COS at 4. The agency evaluated five of the six quotations as essentially technically equal, as no quotation received significant strengths. AR, Tab E.2, Award Document at 19. The overall results were as follows:

² The agency updated the RFQ through the issuance of amendment 1 to the RFQ. Contracting Officer Statement (COS) at 1. All citations to the RFQ refer to the updated RFQ. AR, Tab D.2, Updated RFQ.

	Pioneer³	Coast	ConServe	Vendor A	CBE
Technical Approach	Excellent	Excellent	Excellent	Excellent	Excellent
Mgmt. Approach, Organ. Structure and QC	Excellent	Excellent	Excellent	Excellent	Excellent
Past Performance	Excellent	Excellent	Excellent	Excellent	Good ⁴
Price/Commission Fee	21%	17.95%	13.90%	20%	18.75%

AR, Tab E.2, Award Decision at 7.

With regard to Pioneer’s quotation, the agency specifically noted that Pioneer received five strengths, and one weakness under the most important factor, technical approach. AR, E.1, Technical Evaluation Summary at 5. Pioneer’s weakness related to the statement in Pioneer’s quotation that it was going to employ a call analytics software that it had not previously used. *Id.* Based upon this statement, the agency concluded that without prior experience in using this particular software analytics system or something similar, that “there is potential for risk to the IRS of having incidents, complaints, or negative audit findings result from Pioneer-taxpayer interactions.” *Id.*

As relevant to this protest, of the five vendors that were determined to be technically equal, the only vendor that received a weakness was Pioneer. *Id.* The five vendors each received various numbers of strengths. *Id.* at 5-16. No vendor received a significant strength. *Id.*

Based on these evaluation results, the agency selected Conserve, Coast and CBE for award, finding their quotations to have presented the best value to the government.⁵ AR, Tab E.2, Award Decision at 22. In its award decision, the agency explained that, consistent with the RFQ, because it found five of the six quotations to be essentially technically equal, price became an important factor in deciding which vendors offered the best value. *Id.* at 20.

On February 8, 2021, the agency notified Pioneer of its award decision. AR, Tab H.1, Pioneer Unsuccessful Offeror Letter. This protest followed.

³ Pioneer is an incumbent contractor for this effort. Protest at 7.

⁴ The agency originally assigned CBE a rating of very good for past performance, a rating which was not provided for by the solicitation. See RFQ at 82-83. The agency therefore analyzed the definitions of the adjectival ratings in the RFQ, and determined that a rating of good was appropriate. COS at 6 n.1.

⁵ While the agency acknowledged that CBE’s quotation received a rating of good for past performance, the agency also determined that this factor is the least important technical factor. The agency explains, however, that given CBE’s high ratings and its lower commission rate, it selected CBE’s quotation as one of the firms representing the best value. AR, Tab E.2, Award Decision at 21.

DISCUSSION

Pioneer challenges multiple aspects of the agency's evaluation of vendors' quotations. The protester argues that the agency gave undue weight to adjectival ratings and price, and that the agency failed to credit its quotation with various strengths assigned to other vendors' quotations. Protest at 18. Pioneer contends that its quotation included many of the same features considered strengths in its competitors' quotations, and that the agency erred by failing to consider these attributes in its award decision. *Id.* at 19.

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. *Digital Solutions, Inc.*, B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4. Also, it is a fundamental principle of federal procurement law that a contracting agency must treat all offerors or vendors equally and evaluate their proposals or quotations evenhandedly against the solicitation's requirements and evaluation criteria. *Sumaria Sys., Inc.; COLSA Corp.*, B-412961, B-412961.2, July 21, 2016, 2016 CPD ¶ 188 at 10.

In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. Thus, a protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *DEI Consulting, supra* at 2.

Based upon our review of the record, we conclude that the agency's evaluation and subsequent award decision were reasonable and in accordance with the solicitation's requirements. Therefore, as discussed in detail below, we find no basis to sustain the protest.⁶

Agency's Assessment of a Weakness

As stated above, the agency assigned Pioneer's quotation a weakness under the most heavily weighted factor, technical approach. AR, E.1, Technical Evaluation Summary at 5. The record shows that the agency based this weakness on the statement in Pioneer's quotation that it was going to employ a call analytics software that it had not previously used. *Id.* The agency concluded that Pioneer's lack of prior experience in using this particular calls analytics software system or something similar, meant that "there is potential for risk to the IRS of having incidents, complaints, or negative audit

⁶ Pioneer's initial protest and supplemental protest filing raised numerous allegations. While our decision here does not specifically discuss every argument, we have considered all of the protester's assertions and find none furnish a basis for sustaining the protest.

findings result from Pioneer-taxpayer interactions.” *Id.* The protester was specifically informed of this assigned weakness under the technical approach factor in a post-award explanation provided by the agency. AR, Tab H.2, Pioneer Post-Award Explanation at 5.

The protester did not challenge the agency’s assessment of this weakness in its initial protest. In its comments on the agency report, however, Pioneer argues that the agency disparately evaluated quotations because two vendors received credit for using their quoted call analytics software, but the agency did not similarly assign credit to Pioneer’s quotation for the use of its quoted call analytics software. Comments and Supp. Protest at 11.

The agency responds that a disparate evaluation occurs when quotations are substantially the same, yet are evaluated differently. According to the agency, here, the quotations were reasonably evaluated differently because of the respective vendors’ experience with their quoted call analytics software solutions. The agency explains that two vendors, including vendor A, received a strength under the technical factor because they proposed to use a particular call analytics software with which they had experience. AR, Tab E.1, Technical Evaluation Summary at 5, 7; Supp. Memorandum of Law (MOL) at 16-17. The agency further explains that Pioneer received a weakness under the technical factor because it proposed to use the same software, but it lacked any experience with that software.

When a protester alleges unequal treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the quotations. *Camber Corp.*, B-413505. Nov. 10, 2016, 2016 CPD ¶ 350 at 8. Accordingly, to prevail on an allegation of disparate treatment, a protester must show that the agency unreasonably downgraded its quotation for features that were substantively indistinguishable from, or nearly identical to, those contained in other quotations. See *Battelle Mem. Inst.*, B-418047.3, B-418047.4, May 18, 2020, 2020 CPD ¶ 176 at 5 (citing *Office Design Grp. v. United States*, 951 F.3d 1366, 1372 (Fed. Cir. 2020)).

Here, as explained by the agency, Pioneer received a weakness because it proposed to use a particular call analytics software for which it had no experience. The other vendors, the agency argues, proposed to use the same system and received a strength because of their experience with that system. We agree with the agency that the protester has not established disparate treatment of the technical evaluation of Pioneer’s quotation in this regard. Accordingly, we deny this protest ground.

Agency’s Assignment of Strengths

The protester also contests the evaluation of its quotation, specifically the assignment of strengths, in multiple areas. The protester’s numerous contentions regarding the evaluation of its quotation can be broadly categorized as relating to attributes in Pioneer’s quotation that the agency already identified as strengths and attributes that the agency determined did not qualify as strengths. We have reviewed all of Pioneer’s

allegations and determine the agency's assignment of strengths with regard to Pioneer's quotation to be reasonable. We discuss some illustrative examples below.

Attributes Already Identified as Strengths

The protester contends that the agency evaluated its quotation disparately as it assigned a strength to Vendor A's quotation for the "continued use of a print subcontractor," and the resulting benefits of a pre-approved subcontractor as "[t]his reduces the costs to the IRS for background investigations and minimizes risk of privacy concerns, security review findings, and/or audit findings which could harm the PDC program and the IRS' mission." Supp. Protest at 10 (citing AR, E.1, Technical Evaluation Summary at 7; Tab E.2, Award Decision at 15). Pioneer states that it deserves a strength similar to the one assigned to Vendor A as its quotation also included IRS-approved subcontractors. Comments and Supp. Protest at 10; AR, Tab G.1, Pioneer Volume 1-Technical at 24.

The agency responds that Pioneer is essentially requesting a strength for an attribute in its quotation that has already been recognized as a strength. Supp. MOL at 10. In this regard, the agency's evaluation of Pioneer's quotation includes the following:

As an incumbent PCA [private collection agency], Pioneer has a large number of personnel (500) who have already been cleared to do IRS contract work. This will result in a cost benefit to the government, as each background investigation for a new employee on the IRS contract incurs a cost. Additionally, by employing assistors who have previous experience with IRS debt collection, this may increase IRS account resolution rates sooner after placement.

AR, Tab E.1, Technical Evaluation Summary at 9. The agency states that it assigned Pioneer's quotation a strength for its use of preapproved personnel which the agency states clearly includes subcontractors. Supp. MOL at 10. The agency further explains that while the evaluation team did not always use identical language when describing similar attributes in different quotations, the evaluation gave equal recognition for the same or similar attributes in different quotations. *Id.* at 9.

We find the agency's evaluation of this aspect of Pioneer's quotation to be reasonable and consistent with the stated evaluation criterion. Here, Pioneer's allegation of disparate treatment is not supported by the record as it received a similar strength, albeit differently worded, as the other three vendors, including Vendor A. Consequently, we deny this protest ground.

Attributes Found not to Qualify as Strengths

Next, the protester argues that the agency disparately evaluated quotations as Vendor A received a strength for certain features that its quotation contained, yet Pioneer's quotation was not assigned a similar strength. Comments and Supp. Protest at 12. For example, Pioneer asserts that the agency credited vendor A and two other vendors for

their key personnel's cumulative years of relevant experience, and notes that it has comparable experience for its key personnel but it did not receive a similar credit. *Id.*

In response, the agency avers that the evaluators did not independently calculate either the sum or average years of experience from the individual resumes in the protester's quotation. Supp. MOL at 15. The agency explains that rather, it assigned a strength to vendor A's quotation because the quotation specifically stated that the firm's staffing "demonstrates an experienced staffing model--their assistants' average tenure is more than five years, 28% of staff has tenure[] of more than 10 years and the Management team has an average 20 years of experience." *Id.* (quoting AR, Tab E.1, Technical Evaluation Summary at 11).

The agency points out that Pioneer, on the other hand, did not specifically refer to the cumulative experience of its staff in its quotation. Supp. MOL at 15. The agency further explains that it did not assign Pioneer's quotation the strength that it assigned to the other three vendors' quotations because Pioneer's quotation did not demonstrate the same advantages; thus, the agency argues the argument of disparate treatment is not applicable. *Id.* The agency also argues that our Office has consistently stated that it is a vendor's responsibility to submit an adequately-written quotation, with adequately detailed information, which clearly demonstrates compliance with the solicitation requirements and allows for a meaningful review by the procuring agency. *Id.* (citing *Mike Kesler Enters.*, B-401633, Oct. 23, 2009, 2009 CPD ¶ 205 at 2-3).

Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the vendors' quotations. See, e.g., *Abacus Tech. Corp., SMS Data Prods. Grp., Inc*, B-413421 *et al.*, Oct. 28, 2016, 2016 CPD ¶ 317 at 11. Here, the record shows that three vendors included in their quotations the cumulative years of experience of their key personnel, and that in contrast, Pioneer's quotation lacked this detail. Our Office has consistently stated that a vendor is responsible for affirmatively demonstrating the merits of its quotation and risks the rejection of its quotation if it fails to do so. *Verizon Fed., Inc.*, B-293527, Mar. 26, 2004, 2004 CPD ¶ 186 at 4. To the extent Pioneer's protest submissions now attempt to more clearly articulate the cumulative years of experience of its key personnel, our review is limited to the protester's quotation, as submitted. *Patriot Def. Grp., LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 9. We have no reason to question the agency's evaluation in this regard. Accordingly, this protest allegation is denied.

Past Performance

Next, Pioneer contests the agency's decision to treat other vendors' student debt collection experience as equally relevant to Pioneer's state-level tax collection. Comments and Supp. Protest at 17. In this regard, Pioneer asserts that the agency's

evaluation is unreasonable because these two types of debts have different features.⁷ *Id.* The protester also states that the agency's past performance evaluation of the firm's quotation is not sufficiently detailed. *Id.* at 14.

The agency responds that the RFQ did not expressly define size, scope, and complexity when assessing the relevancy of a vendor's past performance. Supp. MOL at 22. The agency notes that both types of debt collection have many similarities. *Id.* For example, debt collectors for both types of debts are required to protect sensitive data from disclosure, and must follow applicable federal, state, and local debt collection regulations. *Id.*

An agency's evaluation of past performance is, by its nature, subjective, and that evaluation, including the agency's assessments with regard to relevance, scope and significance, are matters of discretion which we will not disturb absent a clear demonstration that the assessments are unreasonable or inconsistent with the solicitation criteria. *Logistics Management Institute*, B-418160, B-418160.2, Jan. 16, 2020, 2020 CPD ¶ 31 at 8.

Here, we find that the agency reasonably determined that contracts such as the collection of federal student debt for another government agency are relevant to the present contract, and are equally relevant to Pioneer's past performance with state-level tax collection, as both activities share many of the same features. While Pioneer may not agree with the agency's assessments, the protester's objections provide no basis for us to find that the agency's evaluation of past performance was unreasonable. See *Glenn Def. Marine-Asia PTE, Ltd.*, B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 7. We therefore deny this aspect of Pioneer's protest.⁸

Award Decision

Finally, Pioneer challenges the agency's best-value tradeoff and selection decision. As discussed above, the agency found that Pioneer, Vendor A, ConServe, CBE and Coast, were essentially technically equal. The agency also concluded that the lower proposed prices for ConServe, CBE and Coast provided the best value to the government. AR, E.2, Award Decision at 22. As discussed above, the protester argues that the agency's failure to assign it certain strengths resulted in an unreasonable source selection

⁷ According to Pioneer, there is no statute of limitations for student debt, but there is for state-level tax debt, and taxpayer bills of rights are not involved with student loan debts, but they are with state-level tax debt. Comments and Supp. Protest at 18.

⁸ We also deny Pioneer's allegation that the agency failed to adequately document the evaluation of its past performance. In a FAR subpart 8.4 procurement, such as the procurement here, an agency's evaluation judgments need only be documented in sufficient detail to show that they are reasonable. *Neopost USA Inc.*, B-404195, B-404195.2, Jan. 19, 2011, 2011 CPD ¶ 35 at 7; FAR 8.405-2. On this record, we find that the agency has satisfied this requirement.

decision. Because we find no merit to any of the protester's challenges to the agency's evaluation of the vendors' quotations, we find no basis to sustain the protester's derivative challenge to the agency's award decision. See *Technology and Telecomms. Consultants, Inc.*, B-415029, Oct. 16, 2017, 2017 CPD ¶ 320 at 6.

The protest is denied.

Thomas H. Armstrong
General Counsel