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Decision

Matter of: Unitec Distribution Systems

File: B-419874; B-419874.2

Date: August 20, 2021

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DIGEST

Protest that agency unreasonably and unequally evaluated quotations is denied where the record shows that the agency reasonably and equally evaluated quotations in accordance with the solicitation's terms, and where the protester does not show that the price reasonableness analysis was unreasonable or insufficiently documented.

DECISION

Unitec Distribution Systems, a small business of Westminster, Maryland, protests the establishment of a blanket purchase agreement (BPA) with Hanover Uniform Company, a small business of Baltimore, Maryland, under request for quotations (RFQ) No. AOCSSB21Q0025, issued by the Architect of the Capitol (AOC) for uniforms and related items. Unitec argues that the agency unreasonably and unequally evaluated technical and price quotations, and made a flawed best-value tradeoff decision.

We deny the protest.

BACKGROUND

On March 3, 2021, the AOC issued the RFQ to procure uniforms, patches, insignia, outerwear, and related items for approximately 1,700 employees in the U.S. Capitol Building, House and Senate office buildings, the Supreme Court, the Botanic Garden, and other facilities. Agency Report (AR), exh. 2, Statement of Work (SOW) at 3. The RFQ, set aside for small businesses using the simplified acquisition procedures of Federal Acquisition Regulation (FAR) part 13, contemplated the issuance of a BPA

against which fixed-price orders could be placed over a 1-year base period and four 1-year option periods. AR, exh.1, RFQ at 4, 11.

Award was to be made on a best-value tradeoff basis considering five evaluation factors, in descending order of importance: technical approach, key personnel, corporate experience, past performance, and price. AR, exh. 3, Instructions to Vendors and Basis of Award at 3, 6. Under the technical approach, key personnel, and corporate experience factors, quotations were to be evaluated as outstanding, good, acceptable, marginal, or unacceptable. *Id.* at 9. Under the past performance factor, quotations were to be given confidence ratings. *Id.* at 10. Price was to be evaluated for accuracy, completeness, and reasonableness. *Id.* at 8. When combined, the non-price factors were more important than price. *Id.* at 6. If quotations were determined not to have any substantial technical differences (i.e., were technically equivalent), price would become the determining factor. Otherwise, award might be made to a higher-priced quotation if the agency found a price premium was warranted due to technical merit. *Id.*

On April 5, the agency received two quotations, one from Unitec and one from Hanover, the incumbent contractor. AR, exh. 4, Technical Evaluation Panel (TEP) Consensus Report at 2. Each TEP member individually evaluated the quotations and then the TEP prepared a consensus report with the following results:

	Unitec	Hanover
Technical Approach	Acceptable	Acceptable
Key Personnel	Acceptable	Acceptable
Corporate Experience	Acceptable	Acceptable
Past Performance	Substantial Confidence	Substantial Confidence
Price	\$4,506,673	\$5,189,246

Id. at 6, 8; AR, exh. 8, Price Evaluation Report at 2.

Under the technical approach factor, the TEP identified two strengths in Hanover's quotation, one concerning its designation of the agency as a key account, and the other concerning the provision of a dedicated customer service agent and not to rely on a generic call center. AR, exh. 4, TEP Consensus Report at 6. The agency found that Unitec's quotation met the SOW requirements but identified no strengths. *Id.* at 8. Under the key personnel factor, the AOC found that Hanover's program manager met the SOW requirements with 25 years of experience setting up and managing complicated large-scale uniform programs. *Id.* at 7. Unitec proposed two program managers, one of whom did not have the required 5 years of experience, and the other whose experience of about 8 years was acceptable. *Id.* at 8. Both quotations were considered acceptable under the corporate experience factor with no strengths or weaknesses. *Id.* at 7-8.

The contracting officer's price reasonableness analysis compared the vendors' average unit prices as well as their overall evaluated prices against each other and against an independent government cost estimate (IGCE). AR, exh. 8, Price Evaluation Report

at 3. The contracting officer found that Hanover's price was 15.15 percent higher than Unitec's, and that Hanover's price was 28.04 percent higher than the IGCE as compared with Unitec's price, which was 11.20 percent higher than the IGCE. *Id.* The contracting officer concluded that, based on adequate competition and comparison to the IGCE, both quotations proposed reasonable prices. *Id.*

The contracting officer's award recommendation concluded that Hanover's quotation represented the best value. The contracting officer stated that, although both vendors received the same ratings for the non-price factors, Hanover's quotation had more benefit to the government. AR, exh. 9, Award Recommendation at 3. The contracting officer cited the two strengths identified in Hanover's technical approach and noted that Unitec's approach did not provide the same or similar two benefits. *Id.* In addition, under the key personnel factor, the contracting officer also found as a benefit to the government the fact that Hanover's program manager had more experience than Unitec's. *Id.* The contracting officer noted that Hanover's price was 15.15 percent greater than Unitec's, but found that the price premium was worth the added benefits. *Id.* On April 14, the agency made award to Hanover and notified Unitec of the award. This protest followed.

DISCUSSION

Unitec raises challenges to the agency's evaluation of quotations, price reasonableness analysis, and best-value tradeoff decision. We have reviewed all of Unitec's arguments, and conclude that none provide us with a basis to sustain the protest. We discuss the principal allegations below, and note that where a protester challenges the evaluation of its quotation in a procurement using simplified acquisition procedures, we will review the record to ensure the agency conducted the procurement consistent with a concern for fair and equitable competition, evaluated quotations in accordance with the terms of the solicitation, and exercised its discretion reasonably. See *Government & Military Certification Sys., Inc.*, B-414740.5, Dec. 19, 2017, 2017 CPD ¶ 387 at 4.

Technical Approach Factor

Under the technical approach factor, vendors were to provide a narrative technical approach plan that described their approach to managing and executing the SOW requirements. AR, exh. 3, Instructions to Vendors and Basis of Award at 4. The agency would evaluate the technical approach to determine the firm's understanding of the requirement and method for completion, and its detailed knowledge and understanding of the SOW requirements. *Id.* at 7.

Unitec argues that the agency improperly failed to assign a strength to its quotation for its proposed use of a specific uniform management software system. The firm asserts that this system significantly exceeds the solicitation's requirements because it is the only system that can handle the complexity of AOC's uniform program. Unitec also argues that the agency's decision not to assign it this strength in the consensus

evaluation report was irrational because two evaluators noted in their individual evaluation sheets that they thought it merited a strength.

The TEP consensus report notes that Unitec's system met the SOW requirements but did "not rise to a level of what would be considered a strength." AR, exh. 4, TEP Consensus Report at 8. The TEP described two specific features of the system but concluded that both simply met the SOW requirements. *Id.* In addition, the TEP chair states that some of the system's features are outside the scope of work of the requirements here and would introduce training requirements for AOC personnel that are unnecessary. AR, exh. 6, First Declaration of TEP Chair at 2.

Unitec has not presented evidence that its system exceeds the SOW requirements in a manner that benefits the AOC or increases the probability of successful performance; rather Unitec makes the unsupported claim that it is the only system that can handle the complexity of the AOC's uniform program. As a result, we conclude that the record shows the evaluation was reasonable, and Unitec's argument that its system merited a strength simply amounts to disagreement with the evaluation. See *Government Acquisitions, Inc.*, B-401048 *et al.*, May 4, 2009, 2009 CPD ¶ 137 at 7 (arguments that protester's proposal should have been rated higher constituted disagreement with the agency's judgment and does not provide a basis to sustain the protest).

As to Unitec's arguments about the findings of individual evaluators, our decisions explain that it is not unusual for individual evaluator ratings to differ from one another, or to differ from the consensus rating eventually assigned; indeed, a score may reasonably be determined after discussions among the evaluators. *Strategic Resources, Inc.*, B-419151, Dec. 11, 2020, 2020 CPD ¶ 399 at 11 n.8. Our concern is not whether the final ratings are consistent with earlier, individual ratings, but whether they reasonably reflect the relative merits of the quotation. *Id.* Unitec's argument that the assessment of its system was irrational based on the differences between individual evaluator ratings and the consensus ratings does not provide a basis to sustain the protest.

Unitec next argues that the AOC unequally evaluated quotations because Hanover's quotation received a strength for its AOC account coordinator, but Unitec did not. In this regard, Unitec argues that it should have received a strength for offering what it terms an equivalent feature through an account specialist (assistant program manager), or its "direct-to-employee" customer service.

It is a fundamental principle of federal procurement law that a contracting agency must treat all vendors equally and evaluate their quotations evenhandedly against the solicitation's requirements and evaluation criteria. *Cellco P'ship dba Verizon Wireless*, B-418155.4, B-418155.5, Nov. 5, 2020, 2020 CPD ¶ 364 at 9. 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.

The TEP determined that Hanover's AOC account coordinator approach warranted the assignment of a strength because it provided a better alternative to using a general

customer service call center and exceeded the solicitation's requirements. AR, exh. 4, TEP Consensus Report at 6. Unitec's quotation proposed a lead program manager as the main account contact, a secondary program manager/account specialist to handle all aspects of AOC's account, and general customer service staff that would provide "direct-to-employee customer services." AR, exh. 5, Unitec's Technical and Price Quotation at 11. The TEP noted that Unitec proposed an account specialist but did not assign this aspect of the protester's quotation a strength. AR, exh. 4, TEP Consensus Report at 8.

The TEP chair explains that, with respect to Unitec's secondary program manager/account specialist, the quotation framed the position's role as supporting the uniform management software system described above. AR, exh. 11, Second Declaration of TEP Chair at 3. For example, Unitec's quotation stated: "How do Unitec's Account/Project Managers and Customer Service Department support the [software system]," and described the program manager as holding joint calls with AOC to set up the system. AR, exh. 5, Unitec's Technical and Price Quotation at 6. These descriptions led the TEP chair to infer that the secondary program manager/account specialist's primary function was to support the system, not necessarily handle the day-to-day issues of AOC's account. AR, exh. 11, Second Declaration of TEP Chair at 3. Therefore, the TEP chair did not consider the secondary program manager/account specialist an equivalent to Hanover's AOC Coordinator. *Id.*

Unitec points to its "direct-to-employee customer services" and argues that this service is at least the equivalent of Hanover's AOC coordinator. The protester also asserts that its direct-to-employee customer services approach may be more of a benefit to the agency than simply a coordinator because AOC's employees will have direct contact with many customer service representatives, rather than AOC's supervisors having to access one coordinator on behalf of all employees. Comments & Supp. Protest at 7.

However, the TEP chair explains that AOC does not need direct-to-employee customer services because its employees do not acquire their own uniforms. AR, exh. 11, Second Declaration of TEP Chair at 3. Instead, the uniforms are acquired by approximately 10 AOC supply management officers. *Id.* The TEP chair explained that, based on the lack of detail in Unitec's quotation, it was inferred that the customer service staff proposed was likely a large group, like a generic call center, that would not provide tailored support to AOC's account like an account coordinator. *Id.* Unitec has given us no basis to question the TEP chair's explanation. On this record, we find that the agency's decision not to assign Unitec's secondary program manager/account specialist or its direct-to-employee customer services approach a strength stemmed from identifiable differences between it and Hanover's quotations, and therefore the agency did not unequally evaluate quotations.

Key Personnel Factor

Unitec argues that the agency should have assigned its quotation a strength under the key personnel factor because it provided two program managers even though the solicitation only required one.

Vendors were required to provide a resume for the program manager, who is responsible for the overall BPA and its orders and is the primary interface between the contractor and the agency. AR, exh. 3, Instructions to Vendors and Basis of Award at 4. The resume had to demonstrate that the program manager had at least 5 years of experience managing uniform deliveries for the federal government in a capacity of the same or similar size and scope as this procurement. AR, exh. 2, SOW at 12. The agency was to evaluate the resume to determine the extent to which the individual has the experience and ability to perform as the program manager. AR, exh. 3, Instructions to Vendors and Basis of Award at 7.

The TEP noted that Unitec submitted resumes for two program managers. AR, exh. 4, TEP Consensus Report at 8. One had less than the requisite 5 years of experience, and the TEP found this individual's experience was not the same or similar to the solicitation's requirements and that the individual therefore did not meet the requirements. *Id.* The second had more than eight years of experience, and the TEP concluded that this individual's experience did meet the requirements. *Id.* Unitec does not dispute that one of its proposed program managers did not meet the minimum requirements. As a result, the firm effectively proposed just one program manager. We see no basis for the agency to have assigned Unitec's quotation a strength for offering two program managers when one did not meet the SOW's minimum requirements.¹

Corporate Experience Factor

Unitec argues for the first time in its comments on the agency report that it should have been rated higher than acceptable under the corporate experience factor because it performed as the prime contractor on all three of the past contract examples it provided. We find this argument untimely. Our Bid Protest Regulations contain strict rules for the timely submission of protests. Under these rules, a protest based on other than alleged improprieties in a solicitation must be filed no later than 10 calendar days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). A protester's receipt of oral information forming the basis of its protest is sufficient to start the 10 day time period running. *Optical Energy Techs. Inc.*, B-401520, July 13, 2009, 2009 CPD ¶ 153 at 3.

¹ Unitec also argues that it was improper for the agency to attach value to the greater experience of Hanover's program manager. However, the agency was to consider the extent to which a program manager had the experience and ability to perform. AR, exh. 3, Instructions to Vendors and Basis of Award at 7. In our view, this language necessarily permits the agency to value more extensive relevant experience.

Unitec was informed of this protest basis on May 21, when the agency held a post-award discussion with the protester and identified the adjectival ratings Unitec's quotation received under each evaluation factor. Memorandum of Law (MOL) at 12; Supp. MOL at 2. If Unitec thought the fact that it was the prime contractor for each of its corporate experience examples merited a higher rating than acceptable, Unitec was obligated to make this argument within 10 days of May 21, but failed to do so.

In any event, corporate experience would be evaluated to determine the extent to which the vendor's/proposed subcontractors' corporate experience reflected services of similar size and scope to this requirement. AR, exh. 3, Instructions to Vendors and Basis of Award at 7. All else being equal (e.g., the corporate experience is the same or similar in scope to this requirement), if the vendor or proposed subcontractor performed as the prime contractor, the vendor would be rated more favorably than if they had performed as a subcontractor. *Id.* The TEP noted that Unitec's examples were relevant, but nothing stood out as particularly exceptional experience to warrant a higher rating. AR, exh. 4, TEP Consensus Report at 8. The TEP also noted that Unitec was the prime contractor on its examples. *Id.* Despite Unitec's claims, the RFQ did not contemplate a higher rating simply because the vendor had been the prime contractor on its examples.

Price Reasonableness Evaluation

Unitec also argues that the agency failed to conduct a price reasonableness analysis. Although Unitec acknowledges that the contracting officer compared the prices of the quotations to each other and to the IGCE, Unitec alleges that there is no actual analysis, and that the agency failed to document evidence of any analysis.

A determination of price reasonableness is a matter of agency discretion, involving the exercise of business judgment, which our Office will not question unless it is shown to be unreasonable. *Precise Management, LLC*, B-411708, Oct. 5, 2015, 2015 CPD ¶ 310 at 4. In determining price reasonableness, an agency may consider a number of factors, including comparison to other quotations received and the government estimate. *Id.* Where, as here, an agency is conducting a simplified acquisition procurement, FAR section 13.106-3(b) provides that documentation for this type of purchase should be kept to a minimum. *J.E.I.*, B-416749, Oct. 24, 2018, 2018 CPD ¶ 364 at 2-3.

The RFQ provided that price would be evaluated for reasonableness, utilizing either comparison to other quotations received, comparison to the IGCE, and or comparison to historical prices. AR, exh. 3, Instructions to Vendors and Basis of Award at 8. The contracting officer compared the vendors' unit and overall prices to each other, compared both prices to the IGCE, noted the differences, and determined that both prices were fair and reasonable. AR, exh. 9, Award Recommendation at 3. While the price reasonableness analysis is not detailed, the contracting officer employed appropriate methods to evaluate price reasonableness and documented the analysis. See AR, exh. 8, Price Evaluation Report at 3. Unitec has not shown this process to be unreasonable or pointed to any specific reason that the actual prices are unreasonable.

Unitec argues that we have previously stated that prices 19 percent higher than the IGCE are *per se* unreasonable, citing to *Comprehensive Health Servs., Inc.*, B-310553, 2008 CPD ¶ 9 to support this claim. *Id.* at 8. We did not find that an offeror's price that is 19 percent higher than the IGCE is *per se* unreasonable in *Comprehensive*. To the contrary, we have found that a price 34 percent higher than the IGCE is not *per se* unreasonable. *IAP World Services*, B-297084, Nov. 1, 2005, 2005 CPD ¶ 199 at 4. More to the point, our decisions have not established a fixed price differential that must result in a determination by the evaluators that a proposed price is unreasonable, and we decline to do so here. *TMG Services, Inc.*, B-410929, B-410929.2, Mar. 25, 2015, 2015 CPD ¶ 121 at 6.

Source Selection Decision

Finally, Unitec argues that the agency did not provide a rational basis for concluding that Hanover's quotation was the best value for the agency. Unitec argues that the quotations are technically equivalent and the RFQ provides that, in such cases, award is to be based on low price. Unitec also asserts that the agency's reliance on the strengths in Hanover's quotation and the experience of Hanover's program manager are not a sufficient basis to have found Hanover's quotation to be the best value.

Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. *Integrity Management Consulting, Inc.*, B-418776.5, June 22, 2021, 2021 CPD ¶ 245 at 10. In reviewing an agency's source selection decision, we examine the record to determine if it was reasonable and consistent with the evaluation criteria and applicable procurement statutes and regulations. *Id.*

While both quotations received the same adjectival ratings, as discussed above, the agency did not determine that they were technically equivalent. Evaluation ratings are merely guides for intelligent decision-making in the procurement process; the evaluation of proposals and consideration of their relative merit should be based upon a qualitative assessment of proposals consistent with the solicitation's evaluation scheme. *Cyberdata Technologies, Inc.*, B-417084, Feb. 6, 2019, 2019 CPD ¶ 34 at 3; *see Arctic Slope Tech. Servs., Inc.*, B-411776, B-411776.2, Oct. 20, 2015, 2017 CPD ¶ 6 at 5. Here, the agency looked behind the adjectival ratings and reasonably ascertained that Hanover's quotation had technical strengths that made it a superior quotation.

Unitec's arguments do not demonstrate that the contracting officer's rationale in the best-value tradeoff analysis is unreasonable. Rather, Unitec's arguments concern the relative worth of the benefits that the contracting officer identified in Hanover's quotation and whether they merit Hanover's higher price. Such arguments amount to

disagreement with the agency's conclusions, and without more, do not establish a basis to sustain the protest. *Integrity Management Consulting, Inc., supra* at 4.

The protest is denied.

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General Counsel