

Decision

Matter of: Analytical Planning Programming Policy & Strategic Integration, LLC

File: B-420140; B-420140.3

Date: December 9, 2021

Charles Lunati for the protester.

Maria Panichelli, Esq., and Karen L. Douglas, Esq., Obermayer Rebmann Maxwell & Hippel LLP, for GC Associates, LLC, the intervenor.

Bradley Richardson, Esq., and Jason R. Smith, Esq., Department of Defense, Defense Health Agency, for the agency.

Alexander O. Levine, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest asserting that agency failed to qualitatively evaluate proposals is denied where the agency reasonably evaluated protester's proposal consistent with the stated evaluation criteria.

DECISION

Analytical Planning Programming Policy & Strategic Integration, LLC (AP3SI), a small business located in Alexandria, Virginia, protests the award of a contract to GC Associates, LLC (GCA), a small business located in Arlington, Virginia, under request for proposals (RFP) No. HT001120R0003, issued by the Department of Defense, Defense Health Agency (DHA), for program management support. The protester asserts that the agency failed to conduct a qualitative evaluation of proposals and improperly awarded the contract on a lowest-priced, technically acceptable basis.

We deny the protest.

BACKGROUND

On May 13, 2020, DHA issued the solicitation seeking program management support for the Director of DHA and the Deputy Assistant Secretary of Defense for Health Services and Policy Oversight, as well as administrative and records management support for DHA's Arlington, Virginia office.

The RFP anticipated the award of a contract on a best-value tradeoff basis considering the following factors: technical, past performance, and price. Agency Report (AR), Tab 1, RFP at 57. Under the solicitation's evaluation criteria, the technical evaluation factor was more important than past performance. *Id.* In addition, both non-price factors, when combined, were more important than price. *Id.* The solicitation provided that as the range of technical merit narrows, the price factor would become more significant. *Id.*

The technical factor was comprised of five subfactors: technical approach, key personnel, transition plan, quality control approach, and limitation on subcontracting. *Id.* at 59. The technical approach subfactor was to be evaluated with an adjectival rating (outstanding, good, acceptable, marginal, or unacceptable), while the other subfactors were to be evaluated as either acceptable or unacceptable. *Id.* at 59-61.

The evaluation of the technical approach subfactor would consider the adequacy of the work force size, in terms of labor hours and the adequacy of the workforce skill mix to perform the full scope of work described in the performance work statement. AR, Tab 38, RFP amend. 003 at 14. The evaluation would also consider the degree to which the offeror's technical approach demonstrates an understanding of, and the capability to perform, certain program management requirements. *Id.* at 14-15.

For the evaluation of key personnel, the agency would review key personnel resumes, certificates, and other pertinent information to determine whether the proposed key personnel met the minimum requirements. *Id.* at 15. Where the proposed key personnel did not meet a minimum requirement, the agency would assign a deficiency and assign the proposal an unacceptable rating under this subfactor. *Id.*

The RFP contemplated that the agency would make its tradeoff by first comparing offerors under the technical approach subfactor (assuming the proposals being compared were rated acceptable under the other subfactors), the past performance factor, and price. *Id.* at 19. Where the relatively better value proposals could not be distinguished from the other proposals, the solicitation permitted the agency to consider "adverse evaluation comments" under the transition plan, quality control approach, and limitation on subcontracting subfactors. *Id.* As the key personnel subfactor evaluation would only document deficiencies, the RFP stated that an acceptable rating under that subfactor would "present[] no useful information for trade-off comparison." *Id.*

The agency received 12 proposals by the June 22 closing date. Contracting Officer's Statement (COS) at 6. On April 5, 2021, the contracting officer established a competitive range of nine proposals.

All nine proposals were evaluated as acceptable under the technical factor and each of its subfactors, with GCA and AP3SI rated as follows:

	Technical	Past Performance	Price
GCA	Acceptable	Neutral	\$26,188,214
AP3SI	Acceptable	Neutral	\$32,163,710

AR, Tab 52, Source Selection Decision Document (SSDD) at 18.

The Source Selection Authority (SSA) conducted eight separate best-value tradeoffs of each offeror relative to the lowest priced offeror, GCA, and concluded that GCA's proposal provided the agency with the best value. The SSA explained that the substantially higher prices of the offerors other than GCA were not offset by higher technical ratings or more relevant past performance. *Id.* at 25.

This protest followed.

DISCUSSION

AP3SI argues that the agency failed to qualitatively evaluate proposals, including AP3SI's proposal, and improperly converted the competition to award based on the lowest-priced, technically acceptable proposal. The protester contends that had the agency conducted a qualitative evaluation, DHA would have identified multiple strengths resulting in AP3SI's proposal being rated outstanding under the technical approach subfactor.

While we do not address every argument raised by the protester, we have reviewed each argument and find no basis to sustain the protest.

The protester argues that DHA "failed to ensure evaluator sufficiency in documenting strengths with particular focus to [the technical approach] subfactor." Comments at 3 (emphasis omitted). The protester clarifies that it is alleging the agency did not engage in a qualitative evaluation of proposals with respect to the four components of this subfactor: workforce size, workforce skill, understanding of performance work statement (PWS) specified services, and capabilities with respect to the PWS-specified services. *Id.* In support of this argument, the protester identifies 20 "proof points" from its proposal that, according to the protester, "meet the definition of 'Outstanding' in the evaluation criteria." Amended Protest at 4. Specifically, the protester highlights as strengths its proposed team composition, key personnel experience and qualifications, and program management processes and systems.

The agency argues that these proof points did not exceed requirements and that many relate to the qualifications and experience of AP3SI's personnel, which were not matters for consideration under the technical approach subfactor. The qualifications and experience of AP3SI's personnel were instead evaluated under the key personnel

technical subfactor, a pass/fail subfactor where strengths assessed would not be considered in the agency's best-value tradeoff. See AR, Tab 38, RFP amend. 003 at 19 ("As the Key Personnel subfactor evaluation may only document Deficiencies, the Acceptable rating for the absence of Deficiencies presents no useful information for trade-off comparison.").

The protester argues that DHA's interpretation of the evaluation criteria is unreasonable and that a "qualitative evaluation of workforce skill, understanding/capabilities of PWS services, is directly correlated to the experience, knowledge, skills, abilities . . . of the proposed employees." Comments at 4. The protester therefore contends that the experience and qualifications of its personnel should have been considered in the agency's evaluation of AP3SI's technical approach, resulting in AP3SI receiving a higher rating under this subfactor.

An agency's judgment of whether to assess unique strengths is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *Raytheon Co.*, B-417935 *et al.*, Dec. 13, 2019, 2020 CPD ¶ 6 at 7. In this respect, agencies are not required to assign strengths for aspects of proposals that merely meet the requirements of the solicitation. *Enterprise Services, LLC et al.*, B-415368.2 *et al.*, Jan. 4, 2018, 2018 CPD ¶ 44 at 8. Moreover, it is not our Office's role to independently reevaluate proposals and assign strengths where the agency did not. See *MetroStar Sys., Inc.*, B-419890, B-419890.2, Sep. 13, 2021, 2021 CPD 324 at 13 (*citing Sapien Gov't Servs., Inc.*, B-410636, Jan. 20, 2015, 2015 CPD ¶ 47 at 3).

Here, we find the agency's interpretation of the evaluation criteria to be reasonable.¹ In this respect, under the technical approach factor, DHA was to evaluate the adequacy of the work force size, in terms of labor hours, and the adequacy of the workforce skill mix to perform the full scope of work described in the PWS.² AR, Tab 38, RFP amend. 003 at 14. In response to the protester's contentions that the evaluation of the "workforce

¹ In addition, we find reasonable the agency's explanation that certain of the protester's proof points did not exceed the PWS requirements and therefore were not considered strengths. We note that AP3SI failed to specifically respond to these arguments. For example, one proof point cited by the protester was that its team "consists of a total of 33 personnel (Full Time Equivalents)." Amended Protest at 5. The agency responded to this proof point by noting that this full-time equivalent level did not exceed requirements and instead simply reflected the number of hours estimated by the government divided by 1,920. Memorandum of Law at 11. Despite providing comments in response to the agency report, the protester failed to respond to this explanation. In addition, we see no basis to question the agency's contention that this proof point did not warrant a strength.

² The evaluation would also consider the degree to which the offeror's technical approach demonstrates an understanding of certain PWS requirements. AR, Tab 38, RFP amend. 003 at 14-15.

skill mix” should have included an evaluation of the experience and qualifications of AP3SI’s proposed key personnel, see Amended Protest at 5, the agency explains that these factors were evaluated under the key personnel subfactor. The agency further explains that it interpreted workforce skill mix as referring to the quantities and types of laborers in specific labor categories. See Contracting Officer’s Statement at 11. For example, an offeror proposing a more favorable labor mix, measured according to the labor categories of proposed personnel, would have merited a strength for exceeding requirements under this criterion. *Id.* at 11 (citing example of an offeror proposing four Systems Analysts II and one System Analyst I, rather than the PWS estimated need of three System Analysts II and two System Analysts I). In our view, the evaluation criteria support this interpretation; moreover, the interpretation is consistent with reading the solicitation as a whole and in a manner that gives effect to all provisions. See *ArmorWorks Enters. LLC*, B-405450, Oct. 28, 2011, 2011 CPD ¶ 242 at 3.

The protester contends that the descriptions of each labor category were vague, reflecting that the agency did not provide evaluators with clear metrics for judging what constituted a strength. AP3SI contends that the lack of “qualifiable metrics” for the technical approach subfactor “permeated” the evaluation, leading to a flawed source selection process. Comments at 5.

To the extent that this protest ground challenges the instructions provided to evaluators, it provides no basis to sustain the protest. In this respect, alleged deficiencies in evaluator instructions do not provide a basis for questioning the validity of the award selection since such internal agency instructions do not accord outside parties any rights. See *Management Plus, Inc.*, B-265852, Dec. 29, 1995, 95-2 CPD ¶ 290 at 2 n.2.³

Instead of reviewing whether the instructions provided to evaluators were sufficient, our Office considers the sufficiency of the evaluation itself, *i.e.*, whether the evaluation was reasonable and consistent with the evaluation criteria. We find no basis to conclude that the agency did not meet this standard. As discussed above, the agency reasonably interpreted and applied the stated evaluation criteria. In addition, while the protester contends that the agency failed to identify as many as 20 strengths in its proposal, it largely did not respond to the agency’s explanations detailing why each proof point did not exceed requirements. In the absence of any substantive evidence that the agency’s

³ To the extent this protest ground challenges the specificity of the evaluation criteria provided in the solicitation, we find that such a solicitation challenge is untimely since it was not raised prior to the deadline for the receipt of proposals. See 4 C.F.R. § 21.2(a)(1).

evaluation missed crediting meritorious features of AP3SI's proposal, we conclude that the evaluation of AP3SI's proposal was reasonable and that the agency's best-value tradeoff did not ignore any relative advantages in AP3SI's higher-priced proposal.

The protest is denied.

Edda Emmanuelli Perez
General Counsel