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Decision

Matter of: Strategic Operational Solutions, Inc.

File: B-420159; B-420159.2; B-420159.3

Date: December 17, 2021

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DIGEST

Protest alleging that agency misevaluated proposals and made an unreasonable source selection decision is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Strategic Operational Solutions (SOS), Inc., a small service-disabled veteran-owned small business of Sterling, Virginia, protests the issuance of a task order to ValidaTek-CITI, LLC, a small business of McLean, Virginia, by the Department of Homeland Security, Citizenship and Immigration Services, under Request for Proposals (RFP) 70SBUR21R00000025 issued pursuant to the National Institutes of Health's Chief Information Officer--Solutions and Partners 3 (CIO-SP3) multiple award indefinite-delivery, indefinite-quantity contract for network engineering and support services. The protester alleges that the awardee's proposal did not address material requirements of the solicitation, and the agency erred in conducting its best-value tradeoff decision.

We deny the protest.

BACKGROUND

On April 13, 2021, the agency issued the RFP seeking support services for the agency's technical operations center, which operates and maintains agency network infrastructure. Contracting Officer's Statement (COS) at 1-2. The solicitation provided for a two-phased evaluation process. Agency Report (AR), Exh. 2, RFP at 57-58. In

phase one, offerors were to submit short proposals responding to questions about their incident management experience. *Id.* The agency would then evaluate those submissions, and advise offerors whether the agency believed they were likely to be successful in the second phase of the procurement. *Id.*

In phase two, offerors submitted more detailed proposals, and made an oral presentation. *Id.* The RFP indicated award would be made on the basis of a best-value tradeoff among four factors specific to phase two: (1) oral presentation/technical challenge; (2) technical approach; (3) management approach; and (4) price. RFP at 58, 66.

Relevant to this protest, the solicitation provided detailed requirements for the management approach submission. *Id.* at 60-62, 64. For example, the solicitation limited management approach submissions to ten pages, and required offerors to demonstrate, among other things, the “ability to provide a comprehensive management dashboard on incident management for reporting purposes.” *Id.* Additionally, the RFP included a detailed performance work statement (PWS) that identified functional requirements for certain positions, but did not mandate any specific CIO-SP3 labor categories for those positions. See, e.g., RFP at 74.

The RFP also outlined mandatory qualifications for certain key personnel. *Id.* at 94-95. In this regard, the RFP required offerors to demonstrate “[a]n understanding of the requirement’s staffing needs (including Key Personnel qualification requirements) through its *Staffing Mix and Narrative* and how the staffing mix aligns with the offering contractor’s proposed technical approach.” *Id.* at 64 (emphasis in original). However, the RFP also provided “[k]ey personnel resumes are not requested nor required,” and indicated offerors need not identify key personnel or provide a statement of qualifications in their proposals, but rather only following task order award. *Id.* at 61, 95.

In phase one of the procurement the agency received seven offers, and advised two of them that they were unlikely to be successful in phase two. COS at 2. The agency received five phase two submissions, including one from SOS and one from ValidTek, the incumbent contractor. *Id.* at 3. The agency evaluated the protester’s and awardee’s proposals as follows:

	SOS	ValidaTek
Oral Presentation and Technical Challenge	High Confidence	High Confidence
Technical Approach	High Confidence	High Confidence
Management Approach	High Confidence	Some Confidence
Price	\$22,797,970.29	\$20,160,585.69

AR, Exh. 18, Source Selection Decision Document (SSDD) at 7-8.

Of note, the technical evaluation committee (TEC) assigned a rating of “some confidence” to ValidTek’s management approach in part because it included a “help

desk specialist” labor category to address the PWS requirements for “tier one” support. AR, Exh. 16, TEC Report at 11. The evaluators noted the help desk specialist labor category may lack the expertise required to accomplish the tasks outlined in the PWS for tier one support. *Id.*

In conducting the best-value tradeoff, the source selection authority (SSA), who was also the contracting officer, noted the protester and awardee received comparably favorable ratings and remarks under the first two factors, and concluded management approach and price were the principal distinguishing factors between the two offerors. AR, Exh. 18, SSDD at 14-15. With regard to ValidaTek’s management approach, the SSA adopted the TEC’s findings, but noted the role definitions leave ample room for interpretation, and that, while the help desk specialist labor category lacks “the sort of detail outlined in the PWS,” it also does not preclude a help desk specialist from performing the duties at a tier one level of support. *Id.* The SSA ultimately concluded this weakness in ValidaTek’s proposal was meaningful, but did not offset ValidaTek’s 13 percent price advantage over SOS’s proposal. *Id.* The agency issued a task order to ValidaTek on September 10, 2021, and this protest followed.¹ COS at 3.

DISCUSSION

The protester contends the agency erred in evaluating the awardee’s proposal in three respects, and also in conducting the best-value tradeoff.² First, the protester contends the awardee’s management approach submission did not address key personnel qualifications. Supp. Protest and Comments at 4-8. Second, the protester argues the awardee’s management approach submission also failed to demonstrate the awardee’s ability to provide a comprehensive management dashboard as required by the RFP. 2nd Supp. Protest at 4-8. Third, the protester maintains the agency did not adequately consider the awardee’s decision to use the help desk specialist labor category for tier one support. Supp. Protest and Comments at 8-15. Finally, the protester contends the best-value tradeoff relied mechanically on adjectival ratings, and failed to “look behind” the ratings to the substance of the proposals. *Id.* at 15-19. We address these arguments in turn.

¹ The awarded value of the task order at issue here is \$20,160,585.69, and, accordingly, this protest is within our jurisdiction to hear protests of task orders placed under civilian agency indefinite-delivery, indefinite-quantity contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(2).

² In its initial protest, the protester also argued that the agency impermissibly used a lowest-priced, technically acceptable basis for award rather than a best-value tradeoff. See Protest at 8-10. Following the submission of the agency report, the protester effectively withdrew that protest allegation. See Supp. Protest and Comments at 19 (conceding protest allegation is “not specifically supported by the record,” and is “superseded” by unrelated supplemental protest grounds).

Key Personnel

The protester argues the awardee's management approach submission does not discuss key personnel qualifications as required by the RFP. Supp. Protest and Comments at 4-8. In this regard, the protester notes the solicitation required offerors to demonstrate "[a]n understanding of the requirement's staffing needs (including Key Personnel qualification requirements)." *Id.* at 5 (citing RFP at 64). According to the protester, the awardee's management approach submission did not address any of the specific key personnel qualification requirements, and the agency's evaluation acknowledged that fact, but did not penalize the awardee for it. *Id.* at 5-6. The protester contends this was a clearly stated solicitation requirement that ValidaTek did not address, and therefore ValidaTek was ineligible for award. *Id.* at 7-8.

Where an evaluation is challenged, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. *Lear Siegler Servs., Inc.*, B-280834, B-280834.2, Nov. 25, 1998, 98-2 CPD ¶ 136 at 7. Moreover, it is a fundamental principle that a proposal that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis for award. *HumanTouch, LLC*, B-419880, *et al.*, Aug. 16, 2021, 2021 CPD ¶ 283 at 6.

Preliminarily, we note that the RFP did not require the kind of detailed response that the protester's arguments seem to contemplate. While the protester is correct that the RFP required offerors to demonstrate an understanding of the "Key Personnel qualification requirements," the RFP also provided that "[k]ey personnel resumes are not requested nor required," and that offerors need only identify key personnel and provide a statement of qualifications after the task order award. RFP at 61, 64, 95. Nevertheless, the record reflects that the awardee, which is the incumbent contractor with many of its key personnel currently performing under the incumbent contract, identified all of its key personnel, by name, in its proposal and provided a description of their skills mapped to the functional requirements of the PWS. See AR, Exh. 8, ValidaTek Proposal at 25-26. Moreover, the awardee's proposal explained its staffing approach would ensure that its personnel "meet or exceed" the agency's requirements, and would deliver "professionals with the skills and training to achieve contract objectives." *Id.* at 26. That is to say, the awardee's proposal identified its proposed key personnel, although it was not required to do so, and included a general statement that it intended to meet the solicitation's requirements for personnel.

The protester is correct that the TEC report noted the awardee did not discuss the specific key personnel qualifications from the PWS in detail. However, the TEC report included this observation in passing at the conclusion of a positive observation concerning the awardee's staffing mix, and it was not reproduced in the section of the evaluation addressing negative observations. See AR, Exh. 16, TEC Report at 11. This supports the agency's argument that the evaluators did not view the awardee's failure to engage with the specific qualifications in the PWS as a significant negative

feature of the proposal. See Supp. COS at 2-3. The agency appears to have concluded that the awardee's identification of its proposed key personnel by name, with description of their skills mapped to the functional requirements of the PWS, coupled with the generalized statements of compliance, was sufficient. On the record before us, when the solicitation did not require the identification of personnel, resumes, or statements of qualifications, we cannot conclude the agency acted unreasonably in accepting the information provided by the awardee.

Reporting Dashboard

Next, the protester argues the awardee's management approach submission does not adequately demonstrate the ability to provide a comprehensive management software dashboard. 2nd Supp. Protest at 4-8. The protester notes the awardee's management approach submission contains only one passing reference to dashboards of any kind and provides no meaningful explanation of its approach to providing such a dashboard. *Id.* Accordingly, the protester contends the awardee failed to address this material solicitation requirement, and was therefore ineligible for award on this basis. *Id.*

Preliminarily, we note the solicitation required offerors to address issues related to dashboard management and reporting in both the technical and management approach sections of their proposals. Specifically, the RFP required offerors to address the requirements of the PWS in their technical approach submissions, and the PWS identified "dashboard management and reporting" as a required function. RFP at 60, 73. Similarly, the RFP required offerors to demonstrate the "ability to provide a comprehensive management dashboard on incident management for reporting purposes" in their management approach submissions. RFP at 62.

Relevant here, the agency notes that the awardee, as the incumbent contractor, developed and currently maintains just such a comprehensive management dashboard for the agency. 2nd Supp. MOL at 3 n. 3; 2nd Supp. COS at 1-2. In the awardee's management approach submission, the awardee explained it is the incumbent contractor for the technical operations center, and, in that role, currently operates and maintains all of the agency's infrastructure. AR, Exh. 24, ValidaTEK Phase 2 Proposal at 20-21. Concerning the comprehensive management dashboard, the awardee noted one of its key personnel--who currently maintains the dashboard for the agency--would continue to manage the dashboard under the new effort. *Id.* The contemporaneous evaluation record reflects that the TEC specifically considered this aspect of the awardee's proposal as an element that increased the agency's confidence in the awardee's ability to perform the task order. See AR, Exh. 16, TEC Report at 11. Because the RFP required offerors to address, in effect, the same topic in both their technical and management approach submissions, it was not unreasonable for the awardee's management approach submission to focus on the staff who will maintain the dashboard, and we cannot conclude that the agency acted improperly in concluding that the awardee's proposal addressed this requirement.

The agency also argues the contracting officer was aware of ValidTek's maintenance and use of the comprehensive incident management dashboard on the incumbent contract, and that this knowledge also contributed to the agency's understanding of ValidTek's ability to provide a comprehensive management dashboard. 2nd Supp. COS at 2. The protester objects to the agency's consideration of its personal knowledge of ValidTek's technical capability to supplement the awardee's proposal, and argues that our decisions suggest such consideration is inappropriate. Protester's 2nd Supp. Comments at 6-7 (*citing Milvets Sys. Tech., Inc.*, B-411721.2, *et al.*, Jan. 14, 2016, 2016 CPD ¶ 42 at 12 n.14; *Apextech LLC*, B-415153.2, *et al.*, Mar. 15, 2018, 2018 CPD ¶ 112 at 7).

We note that the decisions relied on by the protester are distinguishable from this case because those cases did not involve an agency evaluator that relied on their personal knowledge in conducting a technical evaluation. See *Milvets Sys. Tech., Inc.*, *supra*; *Apextech LLC*, *supra*. Rather, both decisions involved evaluators who refused to rely on their personal knowledge in conducting a technical evaluation, which we concluded was unobjectionable because agencies are not generally required to consider extrinsic information in technical evaluations of proposals. *Id.* However, we have repeatedly concluded that, while an agency is not required to consider extrinsic information in the context of a technical evaluation, an agency's evaluation is not limited to the four corners of an offeror's proposal. That is to say, an agency may choose to rely upon other extrinsic information of which it is aware. See, e.g., *Northrop Grumman Sys. Corp.*, B-406411, B-406411.2, May 25, 2012, 2012 CPD ¶ 164 at 11 (agency did not err by considering extrinsic information about technical features of offerors' proposals, even though solicitation indicated that "offerors shall assume that the government has no prior knowledge of their facilities and experience and will base its evaluation on the information presented in the offeror's proposal"); *Interfor US, Inc.*, B-410622, Dec. 30, 2014, 2015 CPD ¶ 19 at 6 (agency evaluators may reasonably consider personal knowledge regarding the capabilities of identified subcontractors to perform the work); *but see Native Energy & Tech., Inc.*, B-416783 *et al.*, Dec. 13, 2018, 2019 CPD ¶ 89 at 5 (concluding that, while agencies may consider extrinsic evidence, they may not assume that an offeror will use a specific technical approach that is not included in an offeror's proposal). In this case, we do not believe the contracting officer erred in considering extrinsic information, to the extent that they did so.

In sum, while the awardee's management approach submission may have only minimally addressed their ability to provide a comprehensive management dashboard, the awardee nonetheless addressed the requirement by explaining that its incumbent manager would continue to maintain the existing dashboard. AR, Exh. 24, ValidATEK Phase 2 Proposal at 20-21. The contemporaneous record reflects that the agency considered this aspect of the awardee's proposal and evaluated it positively. On the record before us, we cannot conclude that the agency erred simply because the SSA chose to additionally consider extrinsic knowledge concerning the awardee's incumbent performance.

Tier One Support

Next, the protester argues the SSA did not adequately consider the awardee's proposal to use the help desk specialist labor category to address tier one support. Supp. Protest and Comments at 8-15. Specifically, the protester notes the TEC prepared a cross-walk between the description of the help desk specialist labor category and the requirements of the PWS concerning tier one support. See, AR, Exh. 16, TEC Report at 11. The protester contends the TEC concluded that help desk specialists will not have the appropriate skills to perform tier one support, and the SSA's assessment of the issue in the best-value tradeoff was irrational. Supp. Protest and Comments at 8-15.

When, as here, a procurement provides for issuance of a task order on a "best value" basis, it is the function of the SSA to perform a price/technical tradeoff, that is, to determine whether one quotation's technical superiority is worth its higher price. *Research & Dev. Solutions, Inc.*, B-410581, B-410581.2, Jan. 14, 2015, 2015 CPD ¶ 38 at 11. While an agency has broad discretion in making a trade-off between price and non-price factors, an award decision in favor of a lower-rated, lower-priced proposal must acknowledge and document any significant advantages of the higher-priced, higher-rated quotation, and explain why they are not worth the price premium. *Id.* Our Office has found that when SSAs have performed this analysis, it is within their discretion to choose a lower-rated, lower-priced proposal in a best-value procurement. *Id.* A protester's disagreement with the agency's determination, without more, does not establish that the evaluation or source selection was unreasonable. *Id.* at 12.

The protester is correct the TEC identified this aspect as a negative feature of the awardee's management approach. See, AR, Exh. 16, TEC Report at 11. However, the RFP did not mandate specific labor categories for any roles, and the TEC did not view this as a deficiency, but rather as an aspect of the proposal that lowered the agency's confidence in ValidTek's management approach. *Id.* The contemporaneous record reflects that the SSA reviewed and considered the TEC's finding, specifically discussed this issue in the tradeoff decision, and, ultimately, considered it to be one of the distinguishing factors between the two proposals. See AR, Exh. 18, SSDD at 15. The SSA, nonetheless concluded the protester's superior management approach did not merit a 13 percent price premium. *Id.* While the protester may disagree with the agency's judgment, we see no basis to conclude the SSA was unreasonable in this regard.³

³ We note that the agency argued that the awardee has taken a similar approach to staffing tier one support on the incumbent effort, and has been very successful in performing the incumbent effort. COS at 6. In response, the protester argues that the agency should not have considered this because it both relied on the contracting officer's personal knowledge of the awardee's technical capability, and the incumbent effort involved a help desk specialist labor category from an entirely different multiple award contract with a different functional description. Supp. Protest and Comments at 14. Because the contemporaneous record contains no suggestion that the awardee's

Best-Value Tradeoff

Finally, the protester argues the agency's best-value tradeoff was additionally flawed because the agency failed to consider the underlying merits of the proposals and mechanically relied on adjectival ratings. Supp. Protest and Comments at 15-19. Specifically, the protester notes the tradeoff narrative treats the protester and awardee as technically equal because they received the same adjectival ratings for the oral presentation and technical approach evaluation factors. *Id.* However, the protester argues its technical approach was significantly better than the awardee's approach because the TEC identified approximately 50 percent more positive features in the protester's technical approach. *Id.*

In reviewing protests of awards in a task order competition, we do not reevaluate proposals but examine the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. *ACCESS Sys., Inc.*, B-400623.3, Mar. 4, 2009, 2009 CPD ¶ 56 at 7. While an agency is not obligated to extensively document every consideration made in its tradeoff decision, it is required to adequately explain and document the basis for its source selection determination. *VariQ Corp.*, B-414650.11, B-414650.15, May 30, 2018, 2018 CPD ¶ 199 at 11. Moreover, our Office has consistently explained that 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. *Highmark Medicare Servs., Inc., et al.*, B-401062.5 *et al.*, Oct. 29, 2010, 2010 CPD ¶ 285 at 19.

Here, the SSDD shows that the SSA carefully reviewed and adopted the TEC's technical evaluation findings, and included a lengthy discussion of the results of the technical evaluations. See AR, Exh. 18, SSDD at 9-14. Specifically, the SSDD included a full page discussion of the TEC's findings for each of the offeror's proposals. *Id.* While the tradeoff narrative concluded the protester and the awardee had "comparably high ratings and favorable remarks" without further discussion of the specific technical strengths of the two proposals, the SSDD nonetheless documented that the SSA was aware of and considered the technical features of both proposals. *Id.* at 9-15.

While the protester argues we rejected an agency's best-value tradeoff under similar circumstances in our decision in *Cyberdata Techs., Inc.*, B-417084, Feb. 6, 2019, 2019 CPD ¶ 34 at 4, we do not agree that the underlying facts are similar. In *Cyberdata*, we concluded an agency's best-value tradeoff was inadequately documented when the agency provided a selection decision document that redacted all discussion of the awardee's quotation, and provided only a two-paragraph award recommendation that

incumbent staffing was considered in the tradeoff decision and the SSDD otherwise adequately supports the agency's decision, we do not reach this issue.

did not discuss the merits of the two proposals. See *Cyberdata*, *supra* at 3 n.3. By contrast, in this case, the agency provided a fulsome, substantially unredacted SSDD that discussed specific technical features of both proposals. See AR, Exh. 18, SSDD at 9-15.

Moreover, the protester's argument that the agency erred in concluding the two proposals were technically similar because the protester's proposal included a larger number of positive features is unavailing. In our decision in *Odin Construction Solutions, Inc.*, B-419793, B-419793.2, July 23, 2021, 2021 CPD ¶ 297, at 6-7, we specifically rejected a similar argument. In that decision, a protester alleged an agency used a mechanical approach when using adjectival ratings to evaluate proposals, but then argued the agency should have counted strengths and weaknesses. *Id.* We concluded such an argument was legally insufficient because the protester, in effect, proposed an alternative approach that relied on an equally inappropriate mechanical reliance on adjectival ratings. *Id.* at 7 n. 6. In short, we see no basis on the record before us to conclude that the agency erred in the conduct of its best-value tradeoff decision.

The protest is denied.

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