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Decision

Matter of: Candor Solutions, LLC

File: B-420308; B-420308.2; B-420308.3

Date: January 19, 2022

W. Brad English, Esq., Jon D. Levin, Esq., Emily J. Chancey, Esq., Joshua B. Duvall, Esq., Nicholas P. Greer, Esq., and Mary Ann Hanke, Esq., Maynard Cooper & Gale PC, for the protester.

John R. Tolle, Esq., Baker, Cronogue, Tolle & Werfel, LLP, for the intervenor.

Christopher J. Reames, Esq., Angela Varner, Esq., Christopher Curry, Esq., Department of Homeland Security, for the agency.

Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of quotations is denied where record shows that agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations.

DECISION

Candor Solutions, LLC, of McLean, Virginia, protests the issuance of a task order to VMD Systems Integrators, Inc., of Fairfax, Virginia, under request for quotations (RFQ) No. 70T02020Q6ACOO128, issued by the Department of Homeland Security, Transportation Security Administration, for information systems security officer support services. Candor argues that the agency misevaluated quotations and made an unreasonable source selection decision in light of its evaluation errors.

We deny the protest.

BACKGROUND

The RFQ contemplates the issuance of a fixed-price task order on a best-value tradeoff basis for a base year and four 1-year options. Firms were advised that the source selection would take into consideration price and two non-price considerations,

corporate experience and technical. RFQ at BATES 1470.¹ The RFQ further advised that the agency would use a two-phase solicitation and evaluation approach.

During phase 1, firms were required to submit a written volume I of their quotation that was confined to describing their corporate experience. Firms were advised that the agency would perform an initial evaluation limited to the corporate experience factor and assign ratings of high confidence, some confidence or low confidence.² RFQ at BATES 1465.

The RFQ advised that the agency would provide firms with an “advisory down-select” recommendation after completing its evaluation under the corporate experience factor. RFQ at BATES 1465-1466. Those quotations receiving a rating of either high confidence or some confidence would be recommended for continued participation in the acquisition, while those quotations receiving a rating of low confidence would not be recommended for further participation. *Id.* (Firms whose quotations received a low confidence rating under the corporate experience factor could, at their election, continue participating in the acquisition. *Id.*)

Those firms electing to participate further in the acquisition were required to submit phase 2 quotations, which were to include two volumes. RFQ at BATES 1466. Volume II was to be comprised of a Microsoft power point presentation that detailed the firm’s response under the technical factor (including detailed information about the firm’s technical approach, staffing approach, and key personnel) while volume III was to be comprised of the firm’s business and price quotation. *Id.* at 1458-1462. In addition, firms were required to participate in an oral presentation of their technical quotation that would include responding to three “scenarios” to be provided during the oral presentation. *Id.* at 1462, 1466.

For purposes of the agency’s source selection, firms were advised that the corporate experience factor would not be considered in connection with the agency’s best-value decision. Instead, the RFQ provided that the agency would make a source selection decision that considered only the ratings assigned to the quotations under the technical factor (deemed more important) and the price factor, (deemed less important, unless quotations were determined to be essentially equal under the technical factor, in which case price could take on added importance). RFQ at BATES 1470.

¹ The agency assigned sequential BATES page numbers to the entire record. All citations are to that numbering system. Additionally, all references to the RFQ in this decision are to the conformed version of the solicitation issued as amendment No. 0007, unless otherwise noted. Agency Report (AR) exh. 8, RFQ Amendment No. 0007.

² The agency’s evaluation guide stated that the agency would use these same three adjectival ratings to evaluate proposals under the technical evaluation factor as well. AR, exh. 13, Evaluation Guide, at BATES 1715-1716.

The agency received quotations from a number of concerns. The record shows that at the conclusion of the phase II process, the agency assigned both the Candor and VMD quotations adjectival ratings of high confidence under the technical factor. AR, exh. 17, Source Selection Decision Document (SSDD) at BATES 1743. Candor submitted a price of \$11,979,982, while VMD submitted a price of \$12,761,209. *Id.*

The record shows that, although both firms received the same adjectival rating, the agency nonetheless concluded that the technical quotation submitted by VMD was somewhat superior to the technical quotation submitted by Candor. AR, exh. 17, SSDD at BATES 1744, 1745. Based on that conclusion, the agency selected VMD for the task order, concluding that its technical superiority merited payment of the price premium associated with its quotation. *Id.* After being advised of the agency's selection decision and requesting and receiving a debriefing, Candor filed the instant protest.³

DISCUSSION

Candor challenges the agency's evaluation of its quotation in a number of respects and also alleges that the agency treated its quotation disparately as compared to the awardee's quotation during the evaluation. We have reviewed all of Candor's allegations and find no basis to object to the agency's evaluation for the reasons advanced by Candor. We discuss our principal conclusions below, but note at the outset that, in reviewing challenges to an agency's evaluation of quotations, our Office does not substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation scheme and applicable statutes and regulations. *Federal Acquisition Services Team OASIS JV, LLC*, B-418776.6, B-418776.7, June 22, 2021, 2021 CPD ¶ 244 at 3.

Evaluation of the Candor Quotation

As an initial matter we point out that, notwithstanding Candor's many challenges to the evaluation, the record shows that the agency ultimately assigned Candor's quotation a rating of high confidence, the same rating assigned to the VMD quotation and the highest possible rating available. In a word, the agency found that the Candor quotation merited high marks, and the agency did not assign any weaknesses, significant weakness or deficiencies to the Candor quotation.

The record does show that the agency identified a number of minor concerns in the Candor quotation that had the effect of nominally reducing the agency's confidence in Candor's offered approach. Among the agency's findings were the following observations: (1) Candor's proposed computer security systems specialist for security

³ Competition for the task order was confined to small businesses holding National Institutes of Health, Chief Information Officer-Solutions and Partners 3, indefinite-delivery, indefinite-quantity contracts. Because the value of the task order exceeds \$10 million, our Office has jurisdiction to consider this protest. 41 U.S.C. § 4106(f).

compliance (one of the required key personnel) did not possess a certified information system security professional (CISSP) certificate; (2) Candor failed to provide a bi-laterally signed letter of commitment for its proposed program manager (another key person); (3) Candor failed to stipulate that it would provide annual updates to the agency's standard operating procedures; (4) Candor failed to detail how it would provide on-call coverage for incident management 24 hours a day, 7 days a week; (5) Candor failed to identify the companies that employed each of its key personnel at the time of quotation submission; (6) Candor's offered staffing level (which mirrored the agency's historical staffing level provided in the solicitation) failed to take into consideration additional work that would be required under the solicited requirement in connection with the agency's "TSA PreCheck" program; and (7) Candor failed to discuss its approach to risk assessment in response to the third of the three scenarios that Candor was required to respond to during its oral presentation. AR, exh. 14, Technical Evaluation Team (TET) Consensus Report, at BATES 1723-1725.

Candor challenges some (but not all) of the agency's findings, but our review of the record shows that the agency's observations are largely borne out by the contents of Candor's quotation (the final observation relating to Candor's failure to discuss risk during its oral presentation is one that relates to Candor's oral presentation and thus did not arise from the contents of its written quotation). Candor's protest allegations either amount to disagreement with the agency's findings, or are entirely unsupported by the facts. We discuss the first two of the agency's findings enumerated above for illustrative purposes.⁴

The first observation noted above relates to the fact that Candor's proposed computer security systems specialist for security compliance--one of three key personnel--did not possess a CISSP certificate, as required by the solicitation. A review of Candor's quotation demonstrates that, in fact, the individual in question does not possess the required CISSP certificate. AR, exh. 12, Candor Quotation (Revised), at BATES 1673.⁵

⁴ The record shows that the agency leveled what arguably could be described as its most severe criticism of the Candor quotation in connection with these two findings, stating that they "significantly lowered" the agency's confidence in Candor's technical approach; as to the remaining findings, the evaluators stated that those findings merely "reduced" the agency's confidence in Candor's technical approach. AR, exh. 14, TET Consensus Report, at BATES 1723-1725.

⁵ The record includes two documents identified as Candor's phase II technical quotation. The first of these documents, AR, exh. 10, Candor Technical Quotation, is dated February 5, 2021, and was submitted by Candor in response to the agency's invitation for Candor to participate in phase II of the acquisition. That document reflects that Candor's computer security systems specialist for security compliance does not possess the required CISSP certificate. *Id.* at BATES 1588. The second document (submitted February 15) appears at AR, exh. 12, and is entitled Candor Quotation (Revised). That document also reflects that Candor's computer security systems specialist for security compliance does not possess the required CISSP certificate. *Id.*

Candor does not allege that its quotation shows that the individual in question actually possesses the required CISSP certificate. Instead, Candor argues that the lack of the CISSP certificate is immaterial because the individual has other certificates that Candor maintains show that the individual is adequately qualified. Candor appears to be arguing that the CISSP certificate is somehow subsumed by the individual's other qualifications. However, the simple fact of the matter is that, consistent with the agency's observation, Candor's quotation does not show that its computer security systems specialist for security compliance has the required CISSP certificate. We therefore have no basis to object to the agency's evaluation for this reason.

The second observation noted above was the fact that Candor's quotation lacked a bi-laterally signed letter of commitment for its program manager. As with the other allegation discussed above, a review of the Candor technical quotation--both versions submitted to the agency prior to Candor's oral presentation on February 19--shows that Candor failed to include a bi-laterally signed letter of commitment for the individual it ultimately offered as its program manager. Instead, Candor included the letter of commitment for a different individual that was originally offered as its program manager.⁶ AR, exh. 10, Candor Technical Quotation, at BATES 1618; exh. 12, Candor Technical Quotation (Revised), at BATES 1706.

Candor maintains that it actually submitted a revised quotation to the agency in August, some 6 months after its oral presentation. According to Candor, the agency solicited revised quotations through the issuance of an amendment, and the agency failed to evaluate its revised quotation.

We find no merit to this aspect of Candor's protest. The record shows that all firms submitted their technical quotations and made their oral presentations to the evaluators in February. The agency's evaluators reviewed the quotations, participated in the oral presentations, and completed preparation of their TET report in April. AR, exh. 14, TET Consensus Report, at BATES 1728.

The record shows that, subsequent to receiving quotations, conducting the oral presentations, and evaluating quotations, the agency issued a series of three solicitation amendments for the limited purpose of having the firms extend the validity of their

at BATES 1673. Both documents were submitted prior to the deadline for submitting quotation revisions, which were due no later than February 19. AR, exh. 9, amend. No. 0008, at BATES 1577.

⁶ In its revised quotation, Candor substituted a different individual for the one proposed as its program manager in the earlier version of its quotation. *Compare* AR, exh. 10, Candor Technical Quotation, at BATES 1588 *with* AR, exh. 12, Candor Technical Quotation (Revised), at BATES 1673. However, Candor failed to submit a letter of commitment for the new individual offered, and instead included the letter of commitment from the previously identified individual.

quotations until the agency could issue a task order. AR, exh. 9, RFP Amendments 9-11, at BATES 1579-1583. Candor claims that one of these amendments--amendment No. 00010--invited firms to submit revised quotations, and that it submitted a revised quotation in response to that amendment that included the correct bi-laterally signed letter of commitment from its program manager.

The amendment to which the protester refers had what the agency describes as a "scriveners error." In particular, the record shows that the amendment was issued using standard form 30, and that, in item 11 of that form, there are two boxes that can be checked following text that provides as follows: "The hour and date specified for receipt of Offers." AR, exh. 9, Amendment No. 00010, at BATES 1580. The two boxes available to be checked after the quoted text state either that the hour and date specified for receipt of offers "is extended" or "is not extended." *Id.* The agency explains that it erroneously checked the "is extended" box rather than the "is not extended" box.

Notwithstanding the agency's error in checking the wrong box, the narrative terms of the amendment make it clear that the agency did not intend to allow for the submission of revised quotations. Rather, the purpose of the amendment was limited to a request for firms to extend the acceptance period for their quotations. Item 11 on the standard form 30 also provides as follows: "The above numbered solicitation is amended as set forth in Item 14." AR, exh. 9, Amendment No. 00010, at BATES 1580 (emphasis supplied). In turn, the text in item 14 provides as follows:

The purpose of this amendment is to extend the acceptance period of quotes by 30 days through September 17th. If the Quoter does not agree to extend the acceptance period, their quote will be removed from award consideration. Quoters are requested to provide a response no later than 10:00 AM EDT 8/13/2021.

Id.

In addition to the terms of the amendment itself, the record shows that the contracting officer transmitted the amendment via an e-mail that stated as follows:

Good afternoon. Attached is amendment A00010 to the referenced RFQ extending the acceptance period of the quotes by 30 days through September 17, 2021. Please provide a signed copy of the amendment no later than 10:00 AM EDT 8/13/2021. It is expected to make the award within this period. *Please contact me with any issues.* Thank you.

Contracting Officer's E-Mail Transmitting Amendment No. 00010, Aug. 6, 2021 (emphasis supplied).

In arguing its position during the protest, Candor submitted a copy of what it claims to be an e-mail to the contracting officer responding to amendment No. 00010, by which Candor claims to have submitted its revised quotation. Protester's Comments to the

Agency Report, exh. A to the Declaration of Candor's President. However, there is no evidence in the record to show that the agency actually received Candor's revised quotation.

In particular, the e-mail by which Candor purports to have transmitted its revised quotation bears the contracting officer's name, but does not include an e-mail address for the contracting officer or any other agency employee. Protester's Comments on the Agency Report, Declaration of Candor's President, exh A. In comparison, all of the other e-mails sent by Candor employees to the agency bear the name and e-mail address of the agency employees to whom those e-mails were sent. AR, exh. 12, Candor Technical Quotation (Revised) at BATES 1669-1672.

In any event, there is no evidence to show that the agency actually permitted any of the competitors to revise their quotations in response to amendment No. 00010, or that the agency evaluated Candor's revised quotation or considered it (or any other revised quotation) during the source selection process. In sum, there is nothing to show that Candor actually timely revised its quotation prior to making its oral presentation; nothing to show that the agency timely received a revised quotation from Candor before it made its oral presentation; nothing to show that the agency actually evaluated a revised quotation from Candor submitted after Candor's oral presentation; and nothing to show that any other competitor was afforded an opportunity to revise their quotation after the conduct of oral presentations.

We also point out that there is no evidence to show that Candor contemporaneously sought to clarify with the contracting officer what it now claims to be its understanding of amendment No. 00010, despite being expressly invited to do so. Inasmuch as the amendment--according to Candor's current claim--appeared to permit revisions to quotations, such an interpretation would present a patent ambiguity because it would be directly inconsistent with the actual narrative portion of the amendment quoted above, as well as the narrative of the contracting officer's e-mail. Under the circumstances, any failure on the part of Candor to seek clarification of the matter was unreasonable.

In the final analysis, Candor had no reasonable basis to conclude--absent some clarification from the agency--that its interpretation of the amendment was reasonable in light of the clear inconsistency between the wording of the amendment itself and Candor's interpretation. Given that Candor failed to timely submit a bi-laterally signed letter of commitment for its program manager prior to making its oral presentation, we have no basis to object to the agency's evaluation for the reasons advanced by Candor. We therefore deny this aspect of Candor's protest.

Disparate Treatment

Candor also alleges that the record reflects several instances of the agency treating it and VMD disparately in its evaluation of quotations. We have reviewed these allegations and find no merit to any of them. We discuss one example for illustrative purposes.

The record shows that the agency credited VMD with offering a quality assurance process and specifically identified this as a discriminator in making its source selection. AR, exh. 17, SSDD, at BATES 1744. Candor argues that it also offered a quality assurance program, and that it was unreasonable for the agency to have credited VMD's quotation, but not its quotation, with this feature.

We find no merit to this aspect of Candor's protest. Candor directs our attention to a page of its quotation which it maintains describes its quality assurance process. AR, exh. 12, Candor Quotation (Revised), at BATES 1700. However, an examination of that portion of the Candor quotation shows that it has nothing to do with Candor describing or offering to provide a quality assurance process. Rather, that portion of the Candor quotation embodies Candor's response to section 3.4 of the solicitation's statement of work, which requires the successful contractor to develop and maintain standard operating procedures for various other statement of work requirements.⁷ RFQ at BATES 1170. In fact, the words "quality assurance process" do not appear on the page identified by Candor, or for that matter, anywhere else in the Candor quotation. Under the circumstances, we have no basis to conclude that the agency disparately evaluated quotations.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁷ In addition to not outlining a quality assurance process, a review of this portion of Candor's quotation also confirms one of the agency's other observations about the Candor Quotation, namely, that Candor did not affirmatively represent that it would update the standard operating procedures at least annually. AR, exh. 12, Candor Quotation (Revised) at BATES 1700; exh. 14, TET Consensus Report, at BATES 1723-1724.