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Decision

Matter of: Agile Defense, Inc.

File: B-415774; B-415774.2

Date: March 13, 2018

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DIGEST

1. Protest challenging an agency's evaluation of technical proposals is denied where agency reasonably evaluated awardee's proposal as superior to protester's under the two most important technical evaluation subfactors.

2. Protest that an agency improperly analyzed cost/price proposals is denied where agency reasonably performed a cost/price realism analysis that was consistent with the terms of the solicitation and applicable law and regulation.

DECISION

Agile Defense, Inc., of California, Maryland, protests the Department of the Navy's award of a task order to Advanced Alliant Solutions Team, LLC (AAST), of Fairfax, Virginia, pursuant to request for proposals (RFP) No. N00421-17-R-0035, issued under the General Services Administration's (GSA) Alliant Small Business Governmentwide Acquisition Contract to provide various information technology (IT) services. Agile asserts that the agency failed to properly evaluate Agile's and AAST's technical proposals and performed an unreasonable cost realism analysis.

We deny the protest.

BACKGROUND

On April 26, 2017, the agency issued RFP No. N00421-17-R-0035 as a total small business set-aside under the GSA Alliant Governmentwide Acquisition Contract vehicle. The procurement was conducted pursuant to Federal Acquisition Regulation (FAR) § 16.505. The solicitation contemplated the award of a single task order to provide “enterprise-wide [IT] services to the Naval Air Systems Command (NAVAIR) and its respective customers” in three distinct service areas: Navy/Marine Corps intranet customer technical representative (NMCI CTR) services; video technologies (communications video); and organizational messaging services. Agency Report (AR), Tab 2, RFP, at 32-33. The RFP included cost-reimbursement contract line item numbers (CLINs) for labor,¹ as well as CLINs for other direct costs. The task order has an estimated value of \$40.25 million. Id. at 3-28; AR, Tab 15, Contracting Officer’s Statement, Dec. 11, 2017, at 1.

The solicitation provided that the source selection decision would be based on a best-value tradeoff between technical and cost/price factors and established the following technical evaluation subfactors, listed in descending order of importance: understanding of the requirements, management plan, key personnel, and transition plan.² RFP at 109-10. The solicitation provided that key personnel would be evaluated on a pass/fail basis, and that the other three technical evaluation subfactors would be evaluated, among other things, “on the basis of detail, effectiveness, comprehensiveness, efficiency, feasibility, and clarity.”³ Id. Rather than assigning adjectival ratings under the evaluation factors, the solicitation provided that the agency would make a “best-suited” determination and stated: “the Government will perform a comparative analysis (comparing contractor responses to one another).” Id. at 109, 111.

With respect to the cost/price evaluation, the solicitation provided that a cost realism analysis would be performed “to determine if the overall costs proposed are realistic for the work to be performed, if the costs reflect the Offeror’s understanding of the requirements, and/or if the costs are consistent with the various elements of the technical submission.” Id. at 110. In this context, the solicitation provided that the agency “may review the prospective Offeror’s submitted labor categories and compare the submitted rate to the average labor rate in industry or within the same demographic zone where the work is to be performed.” Id. (underlining added).

¹ The solicitation identified various labor categories, along with designated levels of effort for each category, for which offerors were required to propose labor rates. RFP at 105.

² The solicitation provided that “technical is significantly more important than cost/price.” RFP at 109.

³ The solicitation further defined “effectiveness” as: “Provides identifiable benefit to the Government relative to requirements.” Id.

Finally, the solicitation advised offerors that the agency intended to make the source selection decision without conducting discussions and noted that the “[b]est value evaluation is, in and of itself, a subjective assessment by the Government.” RFP at 111.

On or before June 7,⁴ proposals were submitted by six offerors, including Agile and AAST.⁵ Consistent with the terms of the solicitation, Agile’s and AAST’s proposals were evaluated as follows:

Evaluation Factors	Agile	AAST
Technical (Overall)	Not Best Suited	Best Suited
Understanding Requirement	Not Best Suited	Best Suited
Management Plan	Not Best Suited	Best Suited
Key Personnel Resumes	Pass	Pass
Transition Plan	Best Suited	Not Best Suited
Total Evaluated Cost/Price	\$39,024,765	\$40,249,224

AR, Jan. 5, 2018, at 6.

In evaluating the proposals under the technical subfactors, the agency identified various benefits that were reflected in each offeror’s proposal, but concluded that AAST’s proposal was “best suited” under the two most important technical subfactors.

In evaluating the offerors’ proposed cost/prices for realism, the agency first calculated the average of the rates proposed by all of the offerors for each of the solicitation’s labor categories. If a proposed rate was within 20 percent above or below the average rate, the agency found the proposed rate to be realistic. Where the agency questioned the realism of a proposed rate, it further compared that rate to data on the internet websites salary.com and payscale.com and considered whether the rate was supported by payroll verification or a contingent-hire letter, if provided, to determine realism. AR, Tab 6, Agile Cost Report at 3. In performing its realism analysis, the agency identified 19 rates proposed by Agile, and one rate proposed by an Agile subcontractor, that the agency concluded were unrealistic. *Id.* at 5, 8-9. Accordingly, the agency upwardly adjusted Agile’s proposed cost/price to reflect its realism analysis.⁶

⁴ While proposals were initially due by June 1, 2017, the agency issued an amendment on May 24, 2017 that extended the deadline to June 7, 2017. AR, Tab 2, Amendment 4, at 3.

⁵ The other offerors’ proposals, and the agency’s evaluation thereof, are not relevant to this protest and are not further discussed.

⁶ Agile’s total proposed cost/price was \$37,123,687.

After completing its evaluation of proposals, the agency identified AAST's and Agile's proposals as "most-suitable for award" and performed a tradeoff analysis between the two. AR, Tab 11, Source Selection Decision Memorandum at 9. In selecting AAST for award, the source selection authority (SSA) stated:

For the Technical factor, it is my determination that the submission from AAST is most advantageous to the Government. AAST's Understanding of the Requirement was superior to the other offerors. AAST's Management Plan provided the least risk because of its unique streamlined approach. AAST's proposed key personnel all received a PASS. While Agile provided the best suited solution under Transition Plan, this was the least important technical subfactor. Although AAST's Transition Plan was not the best suited solution, it provided a suitable transition plan and schedule to effectively provide low risk transition with minimal disruption of IT services.

* * * * *

While Agile's total realism price is \$1,224,459.55 less than AAST, AAST's Technical ranking was higher than Agile's. Given that Technical is significantly more important than cost/price, the only Technical subfactor that Agile was ranked ahead of AAST on was the least important of the technical subfactors, and the fact that the price difference (after cost realism) between AAST and Agile is only 3%, the Government finds that AAST provides the best value to the Government.

Id. at 8-9.

On November 27, Agile was notified of the award to AAST. This protest followed.⁷

DISCUSSION

Agile protests that the agency failed to properly evaluate Agile's and AAST's technical proposals and failed to perform a reasonable cost realism analysis.⁸ As discussed below, none of Agile's allegations provides a basis for sustaining its protest.⁹

⁷ Agile filed its initial protest on December 6, 2017. Following its receipt of various documents provided in connection with the agency's response to that protest, Agile filed a supplemental protest on January 2, 2018.

⁸ The task order at issue is valued in excess of \$10 million. Accordingly, our Office has jurisdiction to consider Agile's protest. 41 U.S.C. § 4106(f).

⁹ In its various protest submissions, Agile has raised arguments that are in addition to, or variations of, those specifically discussed herein, including allegations that the agency failed to conduct and document a qualitative comparison of the advantages and
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Technical Evaluation

First, Agile protests that it was unreasonable for the agency to evaluate Agile's proposal as "not best suited" under the most important technical evaluation factor, understanding of the requirements, because Agile had teamed with incumbent contractors and its team offered "unrivaled expertise and understanding" of the contract requirements. Protest at 2. More specifically, Agile complains that, because the agency's evaluation "specifically noted that Agile's proposal was clear, comprehensive, detailed, and beneficial," it was unreasonable for the agency to have evaluated the proposal as anything but "best suited." Protest at 12-14.

Similarly, Agile protests that it was unreasonable for the agency to have evaluated Agile's proposal as "not best suited" under the second most important technical factor, management plan. In this regard, Agile complains that its proposed management plan "offered unique benefits" that AAST "could not have matched," noting that Agile "proposed key personnel resources [redacted]." ¹⁰ Protest at 14-16. In short, Agile asserts that the agency was required to find its proposal as "best suited" under the management plan factor due to the agency's "entirely positive assessment of Agile's approach." ¹¹ Id.

The agency responds that Agile's challenges to the technical evaluation are without merit. Specifically, the agency does not dispute that its evaluation of Agile's proposal identified multiple aspects that it considered beneficial. However, the agency points out that there were also multiple aspects of AAST's proposal that were similarly considered beneficial to the government, and further explains that, upon performing the comparative analysis contemplated by the solicitation, the agency concluded that

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disadvantages in the offerors' proposals; that the agency was required to conduct discussions with Agile; and that the agency conducted a flawed best-value tradeoff decision. We have reviewed all of Agile's arguments and find no basis to sustain its protest.

¹⁰ We note that, as discussed above, the solicitation provided that key personnel would be evaluated on a pass/fail basis, and that with regard to transition plan, Agile's proposal was, in fact, evaluated as "best suited."

¹¹ In its supplemental protest, Agile notes that, during the evaluation, the agency identified various aspects of AAST's proposal for which the agency considered seeking additional information if discussions were conducted. However, the record is clear that the agency subsequently determined that discussions were not necessary and, in fact, no discussions were conducted with any offeror. Contracting Officer's Statement at 2-3. To the extent Agile's protest asserts that the portions of AAST's proposal for which the agency considered seeking additional information reflected failures to meet the solicitation requirements, that assertion is not supported by the record.

AAST's proposal was more beneficial to the government than Agile's under both evaluation subfactors.

Specifically, with regard to the most important factor, understanding of the requirements, the agency explains that its technical evaluation team (TET) first identified and documented the aspects of each proposal that demonstrated "detail, effectiveness, comprehensiveness, efficiency, feasibility, and clarity," see AR, Tab 8, Technical Evaluation Consensus Report, at 7, 13, then compared the proposals and concluded:

In the Understanding of the Requirements subfactor AAST submitted the best suited technical solution. . . . Agile submitted a suitable technical solution. . . . Agile demonstrated a clear understanding of Video team requirements, however Agile was not as aggressive in their approach to improve quality and customer satisfaction as well as the capability to engineer, implement, and support new video technologies. Agile demonstrated a clear understanding of Organizational Messaging team requirements, although Agile's proposal was not as well defined as AAST's plan to enhance and align user access controls, incident and event management processes, and automated workflow processes.

AR, Tab 8, Technical Evaluation Consensus Report, at 2-3.

With regard to the second most important factor, management plan, the agency similarly explains that, after identifying and documenting aspects of each proposal that were considered beneficial, the TET again compared the proposals and concluded:

In the Management Plan subfactor AAST submitted the best suited solution. AAST proposes a highly capable and technically experienced management team, to include a [redacted]; featuring an open collaboration on resourcing and retention; a detailed identification and streamlined communications plan to effectively identify, assess, and mitigate issues; and dedicated performance monitoring to ensure cost control and tasks are properly executed to support and manage contract requirements. AAST proposed the [redacted]. Agile . . . proposed sufficient management plans with competent technical leadership. None of the [other] offerors . . . proposed the [redacted]. The inclusion of the unique streamlined approach offered by AAST sets their Management Plan above the other offerors.

Id. at 4.

The agency concludes by noting that the SSA considered the TET's assessments and concurred with them, stating that the TET report "appropriately depicts a comparative analysis" of the offerors. Source Selection Decision Memorandum at 3. In summary, the agency responds to Agile's complaints by maintaining that, while both Agile's and

AAST's proposals were evaluated as offering various benefits to the government, AAST's proposal was considered superior based on the comparative analysis contemplated by the solicitation.

The evaluation of an offeror's technical proposal is a matter within the agency's broad discretion and our Office will not substitute our judgment for that of the agency; rather, we will examine the record to determine whether the agency's judgments were reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Nuclear Prod. Partners LLC; Integrated Nuclear Prod. Sols, LLC, B-407948 et al., Apr. 29, 2013, 2013 CPD ¶ 112 at 21. A protester's disagreement with the agency's judgment does not establish that the evaluation was unreasonable. WAI-Stoller Servs., LLC; Portage, Inc., B-408248.13 et al., May 29, 2015, 2015 CPD ¶ 201 at 7.

Here, we have reviewed the evaluation record and find no basis to question the reasonableness of the agency's technical evaluation. Specifically, the agency appropriately documented its technical evaluation and comparison of the proposals, as demonstrated by the reports and documentation prepared by the TET and SSA. Furthermore, as the solicitation contemplates, the methodology of rating proposals as "best suited" or "not best suited" necessarily indicates that a proposal could receive a positive review, and still not receive the "best suited" rating.

In pursuing this protest, Agile has challenged various aspects of the agency's assessments, asserting that its proposal demonstrated "similar, if not equivalent, levels of understanding of the [contract] requirements" as that demonstrated by AAST. Agile Comments, Jan. 16, 2018, at 5. For example, with regard to the solicitation's video teleconferencing requirements, Agile complains that the agency improperly concluded that Agile's proposal was "not as aggressive [as AAST] in their approach to improve quality and customer satisfaction." Id. In this regard, Agile first maintains that the solicitation "did not require offerors to propose an approach to improve quality and customer satisfaction" and, therefore, it was "unreasonable" for the agency to give AAST credit for such an approach, further arguing that the agency's consideration of whether a proposed approach would improve quality and customer satisfaction constituted application of "unstated evaluation criteria." Id.

We find unpersuasive Agile's assertion that it was improper for the agency to consider whether an offeror's proposed approach would improve quality and customer satisfaction. It is beyond dispute that a solicitation need not specifically list each element considered during the course of an evaluation where such elements are intrinsic to, or reasonably subsumed within, the solicitation's stated evaluation factors. AT&T Gov't Solutions, Inc., B-406926 et al., Oct. 2, 2012, 2013 CPD ¶ 88 at 7; Marine Animal Prods. Int'l, Inc., B-247150.2, July 13, 1992, 92-2 CPD ¶ 16 at 6, 15. Here, the solicitation expressly advised offerors that their proposals would be evaluated "on the

basis of . . . effectiveness . . . efficiency [and] feasibility.”¹² RFP at 109-10. We view an approach that improves quality and customer satisfaction as providing “identifiable benefit” and, as such, consider this to be reasonably subsumed with the solicitation’s stated evaluation criteria. Accordingly, we reject Agile’s assertion that it was “unreasonable,” and constituted application of “unstated evaluation criteria,” for the agency to consider whether an offeror’s approach would “improve quality and customer satisfaction.”

Alternatively, Agile asserts that its proposal should have been credited with offering an “equivalent” approach in this regard. In making this alternative assertion, Agile acknowledges that the agency’s positive evaluation of AAST’s proposal was based on a portion of its proposal that stated, among other things:

[redacted]

AR, Tab 4, AAST Proposal, at 14.

Agile asserts that, because Agile’s proposal “[redacted],” it should have been considered equivalent to AAST’s in this regard. Agile Comments at 6. As noted above, we will not substitute our judgment for that of the agency. Based on our review of the entire record here, we reject all of Agile’s assertions challenging the agency’s technical evaluation.

Cost Realism Analysis

Next, Agile contends that the agency failed to conduct its cost realism analysis “in accordance with the terms of the solicitation.” Agile Comments at 2. In this regard, Agile references the portion of the solicitation that stated the agency “may review the prospective Offeror’s submitted labor categories and compare the submitted rate to the average labor rate in industry or within the same demographic zone where the work is to be performed.” Supp. Protest at 6-7; RFP at 110 (underlining added). Based on this provision, Agile asserts that the agency’s comparison of proposed labor rates to the average of all offerors’ proposed rates for each category was “contrary to the requirements of the Solicitation,” and maintains that the agency “was required” to compare the proposed rates to a larger data pool. Supp. Protest at 6-7. With respect to its specific proposal, Agile also challenges the agency’s “unreasonable upward adjustment of Agile’s proposed price despite Agile’s reliable pricing [redacted].”¹³ Id.

¹² As noted above, the solicitation further defined “effectiveness” as: “Provides identifiable benefit to the Government relative to requirements.” RFP at 109.

¹³ Agile also alleges that the agency’s cost realism analysis of AAST’s proposed rates was “unreasonable due to the agency’s failure to upwardly adjust the awardee’s proposed pricing [which was higher than Agile’s] in light of notable risks.” Agile’s Comments at 2. This allegation is based in part on Agile’s belief that the agency improperly “tabled” issues in AAST’s cost proposal. Id.; Supp. Protest at 4. We have

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The agency responds that the solicitation allowed the agency to rely on “the average labor rate in industry” for comparison purposes, see RFP at 110, and, accordingly, the agency maintains that its consideration of the labor rates proposed by the other offerors, along with its reliance on the data at salary.com and payscale.com, was consistent with the terms of the solicitation. AR, Jan. 5, 2018, at 35. The agency further responds that the FAR authorizes comparison of proposed costs to other cost estimates the agency receives in response to the government’s request. See FAR § 15.404-1(c)(2)(iii)(C). The agency notes that, in performing its realism analysis, it considered rates realistic if they were supported by payroll verification or a contingent hire letter, but states that Agile “did not provide current employee salary figures” for the 20 rates the agency viewed as unrealistically low, and when these rates were compared to payscale.com, the agency found the proposed rates to be “considerably low.” AR, Jan. 5, 2018, at 36-37. Finally, the agency states that Agile’s proposal failed to include information regarding one of its subcontractor’s fees. AR, Tab 6, Agile Cost Report at 11. Accordingly, the agency maintains that its cost realism analysis was reasonable and consistent with the terms of the solicitation and applicable law and regulation.

In conducting a cost realism analysis, an agency is not required to conduct an in-depth cost analysis, or to verify each and every cost item; rather, the evaluation requires the exercise of informed judgment by the contracting agency. Cascade Gen., Inc., B-283872, Jan. 18, 2000, 2000 CPD ¶ 14 at 8. Additionally, an agency’s cost realism analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the rates proposed are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation. CSI, Inc.; Visual Awareness Techs. & Consulting, Inc., B-407332.5 et al., Jan. 12, 2015, 2015 CPD ¶ 35 at 6. Our review of an agency’s cost realism evaluation is limited to determining whether the cost analysis is reasonably based and not arbitrary. Hanford Envntl. Health Found., B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 8.

Here, we find the agency’s cost realism analysis to be reasonable and consistent with the solicitation. First, as noted above, the solicitation provided that the agency “may” compare proposed labor rates with “the average labor rate in industry.” Further, the FAR provides that comparison of proposed costs to other cost estimates received in response to the government’s request is a permissible method for performing cost analysis. FAR § 15.404-1(c)(2)(iii)(C). In this context, we find nothing unreasonable in the agency’s consideration of the average labor rates proposed by the competing offerors, augmented by the agency’s consideration of data at salary.com and payscale.com, for purposes of determining realism. See, e.g., CACI Technologies, Inc., B-409147, B-409147.2, Jan. 27, 2014, 2014 CPD ¶ 44 at 4; KinetX Aerospace, Inc.,

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reviewed all of Agile’s additional cost/price realism complaints and find no basis to sustain its protest.

B-406798 et al., Aug. 21, 2012, 2012 CPD ¶ 303 at 13. In short, based on our review of the entire record, we find no basis to question the reasonableness of the agency's cost/price realism analysis.

The protest is denied.

Thomas H. Armstrong
General Counsel