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Decision

Matter of: Amyx, Inc.

File: B-415789.4

Date: May 18, 2018

Kenneth D. Brody, Esq., and Thomas K. David, Esq., David, Brody & Dondershine, LLP, for the protester.
Fallyme E. Guerrero, Esq., and James T. Van Biber, General Services Administration, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where agency's evaluation of protester's proposal was reasonable and consistent with the terms of the solicitation.

DECISION

Amyx, Inc., of Reston, Virginia, protests the General Services Administration's (GSA or agency) evaluation of the proposal Amyx submitted in response to request for proposals (RFP) No. QTA0016GBA0002 for various information technical (IT) services.¹ Specifically, Amyx challenges the agency's evaluation of Amyx's proposal with regard to Amyx's proposed business arrangement with a subcontractor.

We deny the protest.

BACKGROUND

On June 26, 2016, the agency issued the solicitation as a total small business set-aside,² seeking proposals to provide a broad range of IT services, and

¹ The procurement is generally referred to as the "Alliant 2 Small Business Governmentwide Acquisition Contract" or "A2SB."

² The North American Industrial Classification System (NAICS) code for this procurement was 541512, with a \$27.5 million small business size standard.

contemplating the award of multiple indefinite-delivery, indefinite-quantity (IDIQ) contracts.³ The solicitation provided that award would be made to the 80 highest technically-rated offerors that offered fair and reasonable prices,⁴ and established criteria for assigning technical points with regard to the following factors: past performance; relevant experience; systems, certifications, and clearances; and organizational risk assessment.⁵ RFP at 142-48. Finally, the solicitation provided that each offeror was to self-score its proposal against the solicitation's evaluation criteria and provide documentation with its proposal to support the points claimed. Id. at 112-13, 142-43. Following submission of proposals, the agency evaluated the documentation submitted and point scores claimed by each offeror.

As relevant to this protest, the solicitation provided for the assignment of 7,500 points to a proposal "demonstrating that [the offeror] has previously performed in the proposed business arrangement."⁶ Id. at 147-48. With regard to this particular factor, a potential offeror asked in a pre-closing date question whether an offeror that was proposing a prime/subcontractor business arrangement had to have been the prime contract holder in the prior relationship. AR, Tab A.37, Questions & Answers, at 7. The agency responded that an offeror proposing a prime/subcontractor arrangement for the A2SB procurement must have been the prime contractor in the prior relationship in order to properly claim the 7,500 points for this factor. Id. Finally, offerors were reminded that "[s]coring for this element is only available for demonstrating that the offeror has previously performed in the proposed business arrangement." RFP at 136.

On or before the October 6, 2016 closing date, proposals were submitted by 493 offerors, including Amyx. Amyx's proposal provided that it would perform the contract under a prime/subcontractor relationship with [redacted] as Amyx's only subcontractor. AR, Tab B.4, Amyx Proposal Vol. I, at 1. With its proposal, Amyx provided a copy of a 2010 contractor team arrangement (CTA) between Amyx, [redacted], and a third contractor, under which the three contractors had performed work for the [redacted]

³ Offerors were advised that task orders will subsequently be competed between the IDIQ awardees pursuant to the provisions of Federal Acquisition Regulation (FAR) § 16.505.

⁴ The solicitation provided that "all Offerors tied at the 80th position will receive an award," but further noted that "if there is a single point difference between Offeror 80 and Offer[or] 81, only the Offeror in the 80th position will receive an award." Agency Report (AR) Tab A.36, RFP at 142.

⁵ The maximum point score possible was 83,100 points. Id. at 147-48.

⁶ More specifically, section L.5.5 of the solicitation provided that "the offeror shall identify if it has previously performed in the same business arrangement as proposed," and defined a "business arrangement" as "1) an individual company, 2) a joint venture, or 3) a prime contractor and its proposed first tier subcontractor team." Id. at 136.

based on their respective federal supply schedule (FSS) contracts. Among other things, the CTA stated:

Each Team Member shall function as an independent contractor and not as an agent of any other Team Member. Each Team Member has privity of contract with the Government. . . .”

Protest, exh. D, CTA at 7.

Amyx maintains that because Amyx was designated as the “team lead,” it “effectively operated as a prime contractor for purposes of its relationship with [deleted]” under the CTA. Protest at 8. Based on this assertion, Amyx claimed 7,500 points for having demonstrated that it had previously performed in the proposed business arrangement.

In evaluating Amyx’s proposal, the agency concluded that the proposal did not demonstrate that Amyx had previously performed in the business arrangement it proposed for this procurement, noting that the prior CTA created different relationships and responsibilities from the prime/subcontractor arrangement proposed for the A2SB procurement. Accordingly, the agency deducted the 7,500 points Amyx had claimed for this aspect of its proposal.

Thereafter, the agency posted a list of the awardees, disclosing that award was being made to 81 offerors that had evaluated point scores of 68,000 points or higher.⁷ Based on the agency’s evaluation of Amyx’s proposal, and its deduction of the 7,500 points discussed above, Amyx’s point score was less than 68,000 points, and Amyx did not receive an award. This protest followed.

DISCUSSION

Amyx asserts that the agency “failed to properly consider Amyx’s prior business arrangement with its subcontractor” and improperly rejected Amyx’s claim of 7,500 points for demonstrating that Amyx has previously performed in the proposed business arrangement. Protest at 2. Amyx acknowledges that, under its prior relationship with [redacted], [redacted] had a direct contractual relationship with the government, but nonetheless asserts that, because the prior relationship also “involved a team that was organized by Amyx” and that, as “team lead,” Amyx was “responsible for the type of functions typically associated with a prime contractor,” Amyx “effectively operated as a prime contractor [under the prior arrangement].” Id. at 7-8. Accordingly, Amyx asserts that the agency’s evaluation of its proposal was “flawed, unreasonable, irrational, and arbitrary.” Id. at 2.

⁷ There was a tie between offerors scoring 68,000 points; accordingly, award was made to 81 offerors.

The agency responds that Amyx's and [redacted] prior relationship under the CTA was not the same arrangement as the prime/subcontractor arrangement proposed for this procurement. In this regard, the agency notes that, under the prior arrangement each team member had a direct relationship, that is privity of contract, with the government, and each team member submitted invoices and received payment from the government. AR, Tab B.8, Technical Evaluation Summary, at 2; Protest, exh. A, Debriefing, at 3. Finally, the agency notes that, in response to a pre-closing date question, the agency clearly established that, where an offeror proposed a prime/subcontractor relationship for this procurement, it must demonstrate that the parties had previously performed in a prime/subcontractor relationship. Contracting Officer's Statement at 4-7; see RFP at 136.

In reviewing a protest against an agency's evaluation of proposals, our Office 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. See Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. In this regard, the evaluation of an offeror's proposal is a matter within the agency's broad discretion, since the agency is responsible for defining its needs and the best method for accommodating them, U.S. Textiles, Inc., B-289685.3, Dec. 19, 2002, 2002 CPD ¶ 218 at 2, and a protester's disagreement with the agency's judgment, without more, does not establish that the evaluation was unreasonable. C. Lawrence Constr. Co., Inc., B-287066, Mar. 30, 2001, 2001 CPD ¶ 70 at 4.

Here, the terms of the solicitation were clear that, if an offeror proposed a prime/subcontractor arrangement to perform under the A2SB contract, it must demonstrate that it had previously performed in the same prime/subcontractor arrangement with its proposed subcontractor in order to receive the 7,500 points at issue. Based on the record here, we find nothing unreasonable in the agency's determination that Amyx's proposal failed to demonstrate that it had previously performed in a prime/subcontractor arrangement with [redacted]. As the agency notes, under the prior business arrangement, there was a direct contractual relationship between [redacted] and the government, whereas, under the proposed business arrangement, [redacted]'s only contractual relationship would have been with Amyx. On this record, we reject Amyx's assertion that the agency's evaluation of Amyx's proposal was unreasonable.

The protest is denied.

Thomas H. Armstrong
General Counsel