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Comptroller General
of the United States

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Decision

Matter of: Executive Acquisitions & Global Logistic, Engineering Services, LLC

File: B-420231; B-420231.2

Date: January 5, 2022

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Andrew J. Smith, Esq., Major Weston E. Borkenhagen, Major Gregory T. O'Malley, and Captain Timothy M. McLister, Department of the Army, for the agency.
Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated proposals and made an unreasonable source selection decision is denied where the record shows the evaluations of both proposals were reasonable and consistent with the solicitation, and the source selection authority made a reasonable judgment in selecting the awardee's lower-rated and lower-priced proposal for award under criteria that made the price/cost factor approximately equal in importance to the non-price factors.

DECISION

Executive Acquisitions & Global Logistic, Engineering Services, LLC (EAGLES), of Oxon Hill, Maryland, a small business, protests the award of a contract to Charles F. Day & Associates, LLC (Day), of Davenport, Iowa, also a small business, under request for proposals (RFP) No. W912L8-21-R-0003, issued by the Department of the Army, National Guard Bureau, for commercial training support services for bombing prevention training for the Army Interagency Training and Education Center, in St. Albans, West Virginia and other locations. EAGLES argues that the Army misevaluated the proposals and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The RFP, issued on May 19, 2021, sought proposals from historically underutilized business zone small businesses to provide commercial training support nationwide

through both virtual instructor-led training and face-to-face training modules, which were described in a performance work statement (PWS). The RFP anticipated the award of a single fixed-price contract for a base year and four option years.

The PWS described the requirements for training classes, one of which was collecting and reporting specific information in “after action reports” for certain training courses, which were to be distributed to specific recipients. In particular, PWS ¶ 5.2.6.5 provided:

After Action Report (AAR) Submission: The Contractor, if assigned as Alternate Instructor for a training event, shall submit the AARs electronically via email to the OBP [office of bombing prevention] Training mailbox; Cc: MTT [mobile training team] Team Lead, MTT Team NCOIC [non-commissioned officer in charge], Training Operations Section Lead, Quality Assurance representative, and the MTT Primary Instructor, within 5 days from the course end date. The AAR shall include a summary of the lessons learned and participants’ reactions, instructor comments, significant issues and recommendations as identified by the participants or the instructor, and performance metrics as directed by AITEC [Army interagency training and education center].

Agency Report (AR), Tab 10, Conformed RFP at 65.

The contract would be awarded to the offeror whose proposal the agency determined was the best value under three factors: technical, past performance, and price/cost. *Id.* at 84. In assessing which proposal provided the best value, the RFP specified that the technical and past performance factors, when combined, would be approximately equal in importance to the price/cost factor. *Id.*

The technical factor was divided into three subfactors: capability and experience; employee attraction, retention, and management plan; and compensation plan. *Id.* at 85. Under the first subfactor, the agency would assess the offeror’s approach, methods, techniques, capabilities, and understanding of the PWS requirements. *Id.* Under the second subfactor, the agency would assess the offeror’s approach to attracting and recruiting top-quality employees, avoiding disruptions from absences, and its method for determining adequate staffing. *Id.* Under the third subfactor, the agency would assess whether the offeror would provide adequate compensation for professional employees. *Id.* The technical evaluation would yield an adjectival rating of outstanding/blue, good/purple, acceptable/green, marginal/yellow, or unacceptable/red. *Id.* at 85-86.

For the past performance factor, the evaluation would assess the quality of relevant and recent past performance in relation to the probability of success on the resultant contract. *Id.* at 86. To be considered recent, performance had to have been ongoing in some part of the three year period prior to issuance of the RFP. *Id.* To assess relevance, the past performance evaluation would consider the extent to which the

scope, magnitude, and complexity of the offeror’s work was comparable to the PWS requirements. *Id.* The past performance evaluation would produce two ratings: one for relevance (very relevant, relevant, somewhat relevant, or not relevant) and one for performance confidence (substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence). *Id.* at 86-87.

The Army received proposals from five offerors, including EAGLES and Day. AR, Tab 24, Source Selection Decision (SSD) at 1. A source selection evaluation board (SSEB) then evaluated the proposals. Under the technical factor, the SSEB assessed three strengths and no weaknesses or deficiencies in EAGLES’s proposal, and assigned a rating of good/purple. The three technical strengths concerned the firm’s approach to transition, its application of collaboration tools, and its streamlining of contractor travel. AR, Tab 25, SSEB Summary Evaluation Report at 3-4. In reviewing Day’s proposal, the SSEB identified two strengths and no weaknesses or deficiencies under the technical factor, and rated it acceptable/green. The two strengths were for a proactive approach to transition and for the planned implementation of its own collaboration tools. *Id.* at 1-2. The final ratings and evaluated prices for the EAGLES and Day proposals were:

	Technical	Past Performance	Price/Cost
EAGLES	Good (Purple)	Very Relevant Substantial Confidence	\$7.9 million
Day	Acceptable (Green)	Somewhat Relevant Satisfactory Confidence	\$7.7 million

Id. at 5.¹

The source selection authority (SSA) then reviewed the evaluation for each offeror. For Day, the SSA agreed with the rating of acceptable/green and noted that the firm’s technical approach was adequate and provided no more than a moderate risk of unsuccessful performance. AR, Tab 24, SSDD at 1. As relevant to the protest issues, the SSA concluded that Day’s proposal met the requirements of the capability and experience subfactor, identified both of the strengths mentioned above, and then observed that the proposal did not follow the established policy for submitting AARs following each training event but added that “[t]his is not found as a weakness as long as they are willing to conform to the [agency] AAR policy.” *Id.* at 2. The SSA agreed with the past performance rating of somewhat relevant because the firm’s performance record had some of the scope, magnitude, and complexity of the PWS. The SSA also agreed with the rating of satisfactory confidence, and noted that Day had received a rating of satisfactory on a somewhat relevant contract, and ratings of substantial confidence on another contract that was not relevant. *Id.* at 2-3. And finally, the SSA determined that Day’s price was reasonable. *Id.* at 3.

¹ The evaluations of the remaining three offerors are not relevant to this decision.

For EAGLES, the SSA agreed with the good/purple rating, and noted that the proposal generally showed a thorough understanding of the requirement, and presented a low to moderate risk of unsuccessful performance. *Id.* at 5. Under the capability and experience subfactor, the SSA concluded that the proposal provided a “completed planned approach, methods, techniques[,] and understanding” and exceeded the PWS requirements. *Id.* at 6. The SSA then discussed the three strengths identified above, and noted that the proposal showed a thorough understanding of each task associated with face-to-face and virtual courses. *Id.* The SSA found that the firm’s proposal met the RFP requirements under the second subfactor, and that its compensation plan was assessed as adequate under the third subfactor. *Id.* at 6. With respect to past performance, the SSA found that the firm had received ratings of exceptional under the very relevant incumbent contract, and ratings of very good under a second contract, which related to bombing prevention and was deemed relevant. *Id.* at 6. These supported the assessment of EAGLES’s past performance as substantial confidence and very relevant overall, which reflected a high expectation that its performance would be successful. *Id.* Finally, the SSA determined that EAGLES’s pricing was also reasonable. *Id.*

The SSA then considered which offeror’s proposal would provide the best value to the agency. The SSA explained and concluded that after considering the key differences in the proposals, the specific benefits of EAGLES’s technically superior proposal were “not significant enough to warrant any additional cost.” *Id.* at 8. After eliminating two lowest-priced proposals as technically unacceptable, the SSA noted that Day’s proposal was the lowest priced, and again observed that none of the three technical strengths for EAGLES’s proposal justified paying its higher price compared to Day’s. *Id.* at 8-9. Overall, the SSA determined that Day’s proposal provided the best value to the agency under the RFP criteria because, although it was not superior under the non-cost factors, it met the RFP requirements, showed an adequate understanding of the requirement, and posed a risk of unsuccessful performance that was no more than moderate. *Id.* at 9. The Army announced the selection of Day’s proposal and provided EAGLES a debriefing. This protest then followed.

DISCUSSION

EAGLES contends that the Army misevaluated both its and Day’s proposals and that the source selection decision deviated from the tradeoff announced in the RFP. As explained below, the record supports the Army’s evaluation and source selection decision, so we deny the protest.

Technical Evaluation of Awardee

EAGLES challenges the evaluation of Day’s proposal under both the technical and past performance factors. The protester principally contends that Day took exception to a material requirement, and lacked current capability, qualified staff, and relevant past performance. Comments & Supp. Protest at 2-8. Under the technical factor, the protester contends that the evaluators recognized that Day had not shown current capability to perform the PWS because the firm had not delivered comparable services

since 2015. *Id.* (citing AR, Tab 23, Technical Evaluation Worksheets at 2, 4). The evaluators also noted that Day's proposal did not provide for AARs that would contain the information specified in the PWS and be distributed to the designated recipients. *Id.* at 3-4 (citing AR, Tab 23, Technical Evaluation Worksheets at 1). As a result, EAGLES contends that the technical evaluation of Day's proposal as acceptable/green, with no weaknesses or deficiencies,² was unreasonable. *Id.* at 15.

In response, the Army argues that its evaluation of Day's proposal was reasonable and consistent with the criteria in the RFP. Supp. Memorandum of Law (MOL) at 17-18. With respect to the assessment of Day's current capability to provide the required training services, the contracting officer explains that the evaluators' assessment that Day lacked current capability was based on a mistaken application of the 3-year past performance standard, which was not part of the technical factor evaluation, so despite the evaluators' handwritten comments questioning Day's capability, that concern was properly omitted from the final evaluation and the SSDD.³ Supp. Contracting Officer's Statement (COS) at 2-3.

In regard to compliance with the AAR requirement, the contracting officer explains that the agency recognized that Day had properly explained its compliance with the requirement while avoiding verbatim parroting of the PWS. *Id.* at 1-2. The proposal expressly committed Day to fulfilling all logistical and administrative requirements following a training event. *Id.* Further, even though the proposal then continued with a statement about student training reports that did not expressly identify all of the AAR elements identified in the PWS, the noncompliance noted by the agency was not

² EAGLES also contends that Day lacks a staff of instructors but the evaluators overlooked the risk that the awardee would be unable to hire the incumbent staff in time. Comments & Supp. Protest at 14. However, the record shows that the evaluators and SSA did not overlook the matter but both expressly noted Day's planning to hire incumbent staff and found it to be adequate. AR, Tab 25, SSEB Summary Evaluation Report at 1; AR, Tab 24, SSDD at 2. EAGLES's contention that the circumstances pose a risk, rather than an adequate approach to meeting PWS requirements, does not provide a basis to question the agency's reasonable evaluation judgment.

³ EAGLES also contends that a series of emails (produced by the Army as an update to its supplemental agency report--after the protester had filed its supplemental comments) do not support the contracting officer's explanation of the current capability evaluation. In EAGLES's view, the emails show that the evaluators improperly removed critical comments on Day's current capability from their final evaluation only because they felt those facts were adequately conveyed in the past performance evaluation. Comments on Updated Supp. AR, Dec. 15, 2021, at 4-5. We disagree. Based on our review, those emails show that the evaluators considered including comments about Day's current capability in the technical evaluation, but determined that the proposal did not raise a significant issue concerning Day's current capability to perform the PWS. Considering the record, we believe that judgment was within the discretion of the evaluators to make, and was not unreasonable.

deemed significant enough to lower the overall assessment of Day's proposal below the acceptable/green rating. *Id.* at 2; Supp. MOL at 11-13.

Where a protest challenges an agency's evaluation of proposals, our Office's role is to examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. *ManTech Advanced Sys. Int'l, Inc.*, B-413717, Dec. 16, 2016, 2016 CPD ¶ 370 at 3. Where post-protest explanations provide sufficient detail by which the rationality of an evaluation decision can be judged, we will consider them in assessing whether the agency had a reasonable basis for the decision. *Jason Assocs. Corp.*, B-278689 *et al.*, Mar. 2, 1998, 98-1 CPD ¶ 67 at 6. In such cases, a post-protest explanation that provides a detailed rationale for contemporaneous conclusions can provide previously unrecorded details, and will generally be considered in our review of the rationality of selection decisions, so long as the explanations are credible and consistent with the contemporaneous record. *Id.*

EAGLES's challenges to the evaluation of Day's proposal do not provide a basis for our Office to sustain the protest. The record shows that the evaluators initially questioned Day's current capability in their handwritten notes, but also confirms that they ultimately judged that issue in the context of Day's entire technical approach and determined that it did not justify addressing it or assessing a weakness or deficiency in the technical evaluation report. The capability and experience subfactor evaluation was not limited to assessing only the timing of the offeror's last delivery of bombing prevention training. As a result, the evaluators could properly consider the technical approach as a whole, including such features as the firm's explanation that it would seek to hire qualified incumbent employees during the transition period. The determination of whether this specific concern expressed in individual evaluators' notes was significant to the overall evaluation was one within the discretion of the SSEB to determine. EAGLES has not shown that the evaluation of Day's proposal under the experience and capability subfactor was unreasonable.

EAGLES also has not shown that the agency's assessment of Day's proposal as acceptable, notwithstanding concerns over the firm's commitment to submit AARs with the required contents and distribution, was unreasonable or would require sustaining the protest. The record supports both the agency's identification of concern in this regard, and the judgment that the concern did not merit assessing the proposal a rating lower than the acceptable/green rating. That evaluation judgment was supported by Day's express commitment to meet all logistical and administrative requirements after training events. Since that evaluation judgment has support in the record, it was within the discretion of the Army to make. The SSA also agreed with the SSEB that Day's proposal was acceptable/green, while observing that the firm would have to comply with the specific PWS requirements. The Army's judgments were reasonable and the record supports the evaluation.

Next, EAGLES argues that Day's proposal was misevaluated under the past performance factor. Comments & Supp. Protest at 15-16. EAGLES contends that Day's record of performance does not justify a rating of somewhat relevant/satisfactory

confidence because its past performance does not include providing bombing prevention training within the past 3 years. *Id.* EAGLES contends that no other past performance (that is, anything other than bombing prevention training delivered in the past 3 years) could be considered relevant. Based on that claim, the protester contends, the only reasonable evaluation of Day's past performance that the Army could have assessed was a neutral confidence rating, to reflect the alleged lack of any record of relevant past performance. *Id.* at 16. The Army responds that EAGLES's disagreement with the agency's evaluation judgment in assessing past performance does not provide a basis to sustain the protest. Supp. MOL at 21-22.

An agency's evaluation of an offeror's past performance is a matter of discretion which our Office will not disturb unless the agency's assessment is unreasonable or inconsistent with the solicitation criteria. A protester's disagreement with an agency's evaluation judgment, without more, is insufficient to establish that an evaluation was improper. *Onsite OHS, Inc.*, B-415987, B-415987.2, Apr. 27, 2018, 2018 CPD ¶ 164 at 4.

The record shows that the Army assessed Day's past performance on two contracts to be somewhat relevant: one was for unexploded ordnance and explosive ordnance disposal support services, and the other for a mission command training program. AR, Tab 25, SSEB Summary Evaluation Report at 2. The RFP provided that past performance could be considered somewhat relevant where it involved "some of the scope, magnitude . . . and complexities" of the PWS. RFP at 86. Contrary to EAGLES's contention, even though neither contract was for the delivery of bombing prevention training, the agency decided that each of these contracts included an important element of the PWS requirement. Since the record supports the Army's determination that two of Day's contracts were somewhat relevant, EAGLES's challenge to the past performance evaluation is denied.

Technical Evaluation of Protester

EAGLES also contends that its own proposal should have been assessed more highly under the technical factor, resulting in the highest rating. As support, EAGLES argues that its proposal provided unique capabilities arising from its incumbency and continuation of an approach that has proven successful. Additionally, EAGLES cites the evaluation of multiple technical strengths, and no weaknesses or deficiencies, as showing that the technical evaluation of its proposal was unreasonable. Comments & Supp. Protest at 13-14. The Army responds that, as with the protester's challenges to the evaluation of Day's proposal, EAGLES is seeking to substitute its own view for the agency's reasonable evaluation judgment. Supp. MOL at 21.

As noted above, our Office will deny a protest where the agency's evaluation judgment was reasonable and consistent with the stated evaluation criteria. *ManTech Advanced Sys. Int'l, Inc.*, *supra*. Despite the protester's contentions, the Army was reasonable in finding that the allegedly unique aspects of EAGLES's proposal and its continuation of its successful approach as the incumbent did not constitute additional technical strengths. The protester's assessment of the qualities of its own proposal merely

demonstrates disagreement with the agency, and does not show that the agency's evaluation was unreasonable.

Tradeoff Decision

Finally, EAGLES challenges the best-value tradeoff, arguing that the selection of Day's proposal was unreasonable and inconsistent with the RFP criteria. Protest at 17-18; Comments & Supp. Protest at 10-12. EAGLES maintains that its proposal was evaluated as superior under both the technical and past performance factors, and that the price difference of approximately two percent was so small as to render the selection of Day's lower-rated proposal unreasonable. Supp. Comments at 17. EAGLES argues that the contracting officer failed to set forth a reasonable basis for the selection of Day's proposal over its own, and effectively made the selection based on Day's proposal being the lowest-priced technically acceptable proposal, rather than on the tradeoff specified in the RFP. *Id.*

The Army responds that the RFP informed offerors that the technical and past performance factors, when combined, were to be approximately equal in importance to price, and that the contemporaneous record undercuts EAGLES's argument that the SSA failed to follow those criteria. Supp. MOL at 29-31. The Army also notes that it expressly rejected a request from a prospective offeror to change the RFP to provide greater weight for the technical and past performance factors; instead, it affirmed that price would remain equal in importance to the combined weight of the technical and past performance factors. *Id.* at 32-33. Ultimately, the agency contends that the SSA reasonably determined that the superiority of EAGLES's proposal was not worth the additional price, making Day's proposal the best value under the RFP criteria.

Where a solicitation specifies the selection of the proposal that provides the best value to the government will be based on a tradeoff between non-price factors and price, our Office will assess the reasonableness of the source selection official's judgment concerning the significance of the differences and the basis for the selection. *Digital Sys. Group, Inc.*, B-286931, B-286931.2, Mar. 7, 2001, 2001 CPD ¶ 50 at 9. A tradeoff decision need not include a detailed comparison of proposals under each evaluation factor; it need only identify the differences between the proposals that are of significance for purposes of the tradeoff. *Emergint Techs., Inc.*, B-408410.3, Apr. 4, 2014, 2014 CPD ¶ 123 at 6. Moreover, source selection officials have broad discretion to determine the manner and extent to which they will make use of the technical evaluation results, so even where price is the least important factor in the selection, the SSA may select a lower-priced, lower-rated proposal where it concludes that the higher-rated proposal is not worth the associated price premium. *SOC LLC*, B-418027, B-418027.2, Dec. 30, 2019, 2020 CPD ¶ 16 at 6. A protester must show that the agency's judgment was unreasonable or inconsistent with the solicitation, not merely that the protester disagrees with the agency's judgment about which proposal offers the best value to the agency. *Efficiency Mgmt. & Eng'g Co.; Norcor Tech. Corp.*, B-292676, B-292676.2, Oct. 31, 2003, 2003 CPD ¶ 194 at 6.

The record shows that the SSA recognized the weights placed on the evaluation factors as specified in the RFP, and separately reviewed the technical and past performance qualities of the proposals submitted by both Day and EAGLES. AR, Tab 24, SSDD at 2-3, 5-6. Having considered each offeror separately, the SSA proceeded to make a tradeoff in which the SSA expressed the view that Day's proposal provided the "best mix of price and non-cost benefits." *Id.* at 8. The SSA then identified each of the technical strengths that EAGLES's proposal provided, and explained that those strengths did not "warrant the additional cost of \$[203,000]." *Id.* at 9. The SSA also affirmatively recognized that while Day's was "not the superior proposal in terms of non-cost factors," its approach was adequate, its risk of unsuccessful performance was no more than moderate, and its past performance provided satisfactory confidence. *Id.*

The contemporaneous record thus clearly shows that the SSA recognized the differences between the EAGLES and Day proposals under both of the non-price factors, the specific strengths that EAGLES's proposal provided, and the judgment to make a tradeoff in favor of Day's lower-rated and lower-priced proposal. That tradeoff was reasonable and consistent with the RFP criteria making the technical and past performance factors approximately equal in importance to the price/cost factor. Accordingly, we deny EAGLES's challenge to the selection of Day's proposal for award.

The protest is denied.

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