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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: Standard Communications, Inc.

File: B-296972

Date: November 1, 2005

David M. Nadler, Esq., and Joseph R. Berger, Esq., Dickstein Shapiro Morin & Oshinsky LLP, for the protester.

James J. Regan, Esq., and Daniel R. Forman, Esq., Crowell & Moring LLP, for dNovus RDI, an intervenor.

Maj. Jeffrey Branstetter, and David L. Bell, Esq., Department of the Air Force, for the agency.

Paul E. Jordan, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency reasonably did not evaluate protester's past performance as justifying high confidence rating, despite generally positive feedback from references, where protester's past contracts were reasonably found to be only partially relevant in size and scope to work to be performed in statement of work.
2. Agency reasonably evaluated protester's proposal's technical risk as high where its proposed labor rates and overall price were significantly below agency's independent estimate and reasonably were found to threaten its ability to hire and retain incumbent personnel.
3. Where protester's neutral past performance rating was not considered a significant weakness, and nature and ultimate relevance of protester's past performance submissions were clear, agency was not required to conduct discussions on past performance.
4. Price-technical tradeoff was reasonable where source selection official identified technical distinctions between competing proposals and specifically determined that higher technically rated proposal represented best value despite higher cost.

DECISION

Standard Communications, Inc. (SCI) protests the award of a contract to dNovus RDI under request for proposals (RFP) No. FA4890-05-R-0156, issued by the Department of the Air Force as a total small business set-aside for Air Combat Command (ACC) Information Technology (IT) Enterprise Operations at Langley Air Force Base, Virginia. SCI challenges the technical and price evaluations of its proposal and the adequacy of discussions.

We deny the protest.

The RFP contemplated the award of a fixed-price labor-hours contract under the General Services Administration (GSA) Federal Supply Schedule for a 6-month base period, with 4 option years, in support of the 83d Communications Squadron. The Squadron is responsible for the operation, security, management, administration, and user help desk support for the ACC IT Enterprise, which includes 15 main operating bases, Air Force Special Operations command base support, several geographically separated units, and subordinate headquarters such as the Air Intelligence Agency. The current client base support was estimated at more than 100,000 personnel and 67,000 workstations, and was expected to grow to include other tenants and organizations. Major efforts supported by the contract include engineering and technical support, network operations crew positions, ACC circuit management office support, and special maintenance support. The RFP included a 28-page statement of work (SOW) that set forth a detailed listing of tasks, minimum qualifications of personnel, and deliverables. The RFP also identified the estimated number of hours for each task, for which offerors were to propose fixed, burdened labor rates.

Proposals were to be evaluated on a “best value” basis considering four factors—mission capability, which was equal in importance to past performance, risk (less important), and price (least important). Mission capability was divided into two subfactors—program management and staffing plan (less important). These subfactors were to be rated on a color/adjectival basis, and past performance on a confidence level basis.¹ Risk associated with the two mission capability subfactors was to be rated as high, moderate, or low. Price was to be evaluated on the basis of whether it was unreasonably high or low in relation to the government’s estimate, the offeror’s technical approach, and other offerors’ proposed prices.

¹ The possible mission capability ratings were blue/exceptional, green/acceptable, yellow/marginal, and red/unacceptable. The past performance ratings were high, significant, satisfactory, unknown, little, and no confidence.

Eight offerors, including SCI and dNovus, submitted proposals, which were evaluated by the source selection evaluation team (SSET). After discussions, the offerors submitted final proposal revisions (FPR). The final consensus evaluation for the protester and awardee was as follows:

	SCI	dNovus RDI
Mission Capability		
Program Management (Risk)	Green (high)	Blue (low)
Staffing Plan (Risk)	Green (low)	Green (low)
Past Performance	Unknown	Significant
Price	\$24,708,167	\$29,174,715

The contracting officer, as the source selection authority (SSA), reviewed the SSET's evaluations and performed a price-technical tradeoff. The SSA concluded that dNovus's superior technical proposal, with its lower risk rating, offset the lower prices of the other proposals, including SCI's. After a debriefing, SCI filed this protest.

SCI challenges the evaluation and award decision on numerous bases. We have considered all of SCI's arguments and find that they have no merit or, alternatively, that any impropriety did not prejudice the protester. We address SCI's most significant arguments below.

SCI'S TECHNICAL EVALUATION

Mission Capability Factor

SCI asserts that the agency arbitrarily rated its proposal as green/acceptable under both mission capability subfactors--program management and staffing plan--based on matters that either were not RFP requirements or were otherwise all satisfactorily addressed in its proposal and responses to discussions. SCI believes that its proposal should have been rated as blue/exceptional under both subfactors.

In reviewing a protest of an agency's proposal evaluation, our review is confined to a determination of whether the agency acted reasonably and consistent with the terms of the solicitation and applicable statutes and regulations. United Def. LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 10-11. A protester's mere disagreement with the agency's judgment does not render the agency's evaluation unreasonable. See Command Mgmt. Servs., Inc., B-292893.2, June 30, 2004, 2004 CPD ¶ 168 at 3. The evaluation under the mission capability subfactors was unobjectionable.

Program Management Subfactor

In evaluating SCI's proposal as green/acceptable under the program management subfactor, the SSET found that the proposal met the basic intent of the SOW's staffing aspects, but was unoriginal in its proposed effort. AR, Tab 23, at 3. For example, the proposal described SCI's capabilities to accomplish system design, test plans, system specifications, and the final technical report, but did not relate these capabilities to current ACC IT Enterprise activities. AR, Tab 17a, at 3. SCI asserts that the RFP did not require relation of work to current ACC IT Enterprise activities. However, since the RFP encompasses responsibility for the operation, management, and other activities in support of the ACC IT Enterprise, we think the SSET reasonably could consider this to be a matter that warranted rating SCI's proposal below the blue/exceptional level.

We also find the risk rating to be reasonable. The risk aspect of this subfactor was to be evaluated based on the offeror's approach and included consideration of the potential for disruption of schedule and degradation of performance. RFP at 40. Following discussions, the SSET found that SCI's mitigation of risk was "basically acceptable" in defining key areas of risk, but concluded that the firm had given "little thought" to mitigating the risk associated with its proposal to hire the incumbent employees, and thus evaluated the proposal as posing a moderate risk. AR, Tab 17a, at 2-3. The SSET's post-FPR evaluation noted that SCI had reduced its price by some [deleted] percent, resulting in a price significantly below the agency's estimate. AR, Tab 23, at 5. The SSET found that this reduced price severely threatened the firm's proposed capability to hire and retain a workforce with the expertise necessary to fit the agency's requirements, and thus also increased proposal risk. *Id.* Although SCI's proposal addressed risk mitigation in this area and included reasons for its price reductions, the SSET found that the proposal was not sufficiently comprehensive. Contracting Officer's Statement at 8. The SSET noted in this regard that the proposal only contained two paragraphs on the subject, which simply provided that the firm would attempt to hire the incumbent employees "subject to successful compensation negotiations," and listed various recruitment strategies for filling other positions. SCI Proposal, ¶¶ 3.4.1, 3.4.2. In addition, while SCI's proposal included a brief paragraph and table regarding risk identification, mitigation, and management, its proposed mitigation of the high contract start-up risk (based on the need to hire the incumbent employees) consisted simply of the statement "incumbent candidates," *id.*, ¶ 3.5, and did not address the risk that salary negotiations with incumbents would be unsuccessful. Contracting Officer's Statement at 8. Under these circumstances the SSET's evaluation of high risk was unobjectionable.

Staffing Plan Subfactor

SCI asserts that its proposal also should have been evaluated as blue/exceptional under the staffing plan subfactor, since some of the personnel qualifications listed in appendix A of its proposal exceeded the RFP requirements, and it addressed the only

identified subfactor weaknesses in response to discussions. This argument is without merit. The RFP provided for a blue/exceptional rating where a proposal exceeded minimum performance or capability requirements in a way beneficial to the government, with one or more strengths and no deficiencies. RFP at 39. The agency explains that, based on the way the SOW was written and the elements assessed in the proposals, this was a difficult area for any originality or ability to substantially exceed the SOW requirements; in fact, all proposals were rated as satisfactory under this subfactor. While SCI did exceed some of the SOW requirements in its listing of the experience/qualifications for various generic position descriptions, staff qualifications was only one of five evaluation elements under this subfactor. This being the case, the agency could reasonably conclude that a blue/exceptional rating was not warranted.

Past Performance Factor

SCI asserts that the agency improperly rated its past performance. Specifically, SCI maintains that the agency erred in failing to consider two of its past performance references and in determining that all of its references were only partially relevant.² In the protester's view, a proper evaluation would have resulted in a rating of high or significant confidence.

The evaluation of past performance, including the agency's determination of the relevance and scope of an offeror's performance history to be considered, is a matter of agency discretion that we will not find improper unless unreasonable, or inconsistent with the solicitation criteria or procurement statute or regulation. See Family Entm't Servs., Inc., d/b/a/ IMC, B-291997.4, June 10, 2004, 2004 CPD ¶ 128 at 5.

The agency's evaluation of SCI's past performance was unobjectionable. SCI submitted four past performance references—one each for itself and its three subcontractors. Because SCI did not submit CPARs for any of its past performance references, the SSET evaluated SCI's past performance on the basis of its contacts

² In a related argument, SCI asserts that the agency should have considered the open ratings reference system—GSA's independent past performance rating system—which allegedly would have shown SCI's "universally excellent performance." SCI Comments at 13. However, while the agency could have availed itself of this system, it was not required to do so. Moreover, the RFP (at 44) required offerors to submit Contract Performance Assessment Reports (CPAR) or other comparable past performance evaluation information (such as the GSA ratings) with their proposals. SCI did not submit GSA rating information, and therefore is not now in a position to assert that the agency should have considered that information. Offerors are responsible for submitting an adequately written proposal, and run the risk that their proposal will be evaluated unfavorably where they fail to do so. Carlson Wagonlit Travel, B-287016, Mar. 6, 2001, 2001 CPD ¶ 49 at 3.

with listed references, and on its analysis of the relevance of SCI's submitted contracts. Based on this review, the SSET concluded that, despite favorable responses from the references, SCI's past performance submissions were only partially relevant when compared to the SOW.³

For example, a reference for one of SCI's subcontractors concerned help desk services and support for a very specific IT system comprised of multiple mission-specific applications related to the Air Force's planning and execution of an air war. While this is a technically complex system, and the SSET noted the subcontractor's good reputation for help desk support, the agency noted that it is only one of hundreds of systems that will be covered by the services provided under the awarded contract. SSET Chief Memorandum (SSET Memo), Oct. 7, 2005, at 2; AR, Tab 17a, at 2. The agency determined that, while this and some of the other skill sets performed by the subcontractor are relevant to the SOW, the range of services in the awarded contract—operation, security, management, administration, and user help desk for an enterprise—is much broader. In this regard, the SOW encompasses administration of e-mail servers and Microsoft Active Directory for over 100,000 users. SSET Memo at 2. The SSET also found the subcontractor's "scalability" (i.e., ability to support the size of the Air Force's IT enterprise) was unknown. It was these considerations that led the SSET to conclude that SCI's past performance was only partially relevant, and we find nothing unreasonable in the agency's discounting SCI's past performance in the evaluation based on these considerations. Accordingly, we conclude that the agency reasonably did not assign SCI the past performance rating of high or significant confidence to which it asserts it was entitled.⁴

SCI challenges the SSET's assessment, noting that its subcontractor's past performance indicated administration of e-mail and that the reference specifically opined that the subcontractor "could scale well to an enterprise level." AR, Tab 17a, at 2. SCI's position is unpersuasive. For example, while the past performance

³ SCI asserts that it was improper for the SSET to use the SOW in evaluating relevance because the RFP did not expressly state that the agency would do so. However, relevance was defined as performance on contracts of a similar magnitude, including "operation, security, management, administration and user help desk support for an enterprise." RFP at 44. The SOW set forth the required tasks under these criteria and is clearly related to or encompassed by them. As such, the SOW was a reasonable reference point for determining relevance.

⁴ SCI does not raise, and we therefore do not address, whether it is proper to assign a rating of unknown based on a finding of only partially relevant past performance, where, as here, this rating was defined as "no performance record identifiable." SCI contends that it deserved one of the highest past performance ratings (high or significant confidence), a contention we reject for the reasons set forth in the text.

submission listed e-mail services, it did not indicate that these services covered the significant scope encompassed by the SOW. The record shows that the SSET considered the input of the references (AR at 10), and reached its conclusion of partial relevance based on an analysis of the smaller scale work covered and the corresponding apparently lower number of personnel involved under that contract than would be needed for the contract to be awarded. SSET Memo at 3. In light of these considerations, we think that the agency reasonably concluded that this past performance was only partially relevant and, as such, did not support a rating of high confidence.⁵

SCI also asserts that the agency improperly failed to consider SCI's own past performance of a support services contract for the Navy's Bureau of Medicine and Surgery. This assertion is without merit. SCI's proposal indicated that it had been performing the referenced contract for less than 1 year (July 2004 to June 2005) when proposals were submitted.⁶ Because the RFP specifically provided that contracts with total performance of less than 1 year would not be considered (RFP at 46), the evaluators reasonably did not consider it. Where, as here, offerors are on notice that contract duration will form a part of the past performance evaluation, an agency reasonably may give contracts of shorter duration no weight and not consider them relevant to the evaluation of past performance. See Chenega Tech. Prods., LLC, B-295451.5, June 22, 2005, 2005 CPD ¶ 123 at 6. In any event, as with the other past performance submissions, the SSET found that SCI's contract was only partially relevant, and thus would have been entitled to little weight in the evaluation. In this regard, the SSET found that, although SCI's performance of the contract covered some elements of the SOW, it did not involve the detailed design, implementation, and operations of IT systems encompassed by the SOW. SSET Memo at 2.

⁵ The SSET was unable to obtain information on one subcontractor's past performance because the listed contact was on emergency leave and the alternate contact did not respond to a voice mail message. AR, Tab 17a, at 2. An agency is only required to make reasonable efforts to contact an offeror's references and need not consider all references submitted. OSI Collections Servs., Inc.; C.B. Accounts, Inc., B-286597.3 et al., June 12, 2001 CPD ¶ 103 at 9. In any event, the SSET considered the contract only partially relevant, since the work was focused on the computer network defense mission set as opposed to the wider range of services covered by the SOW.

⁶ SCI's submissions to our Office state that it actually began work on this contract in late June 2004, which would satisfy the minimum 1 year performance requirement. Whether or not this is correct, it is irrelevant at this late date. It was SCI's responsibility to provide an adequately written proposal, Carlson Wagonlit Travel, supra, and because SCI failed to include the correct date in its proposal, SCI bears the responsibility for the agency's failure to consider it in the evaluation.

LACK OF DISCUSSIONS

SCI asserts that the agency improperly failed to provide it with discussions in the area of past performance. Had it done so, SCI maintains, it easily could have dispelled the agency's concerns.

The scope and extent of discussions are largely matters of the contracting officer's judgment. An agency is not required to afford offerors all-encompassing discussions, or to discuss every aspect of a proposal that receives less than the maximum score, and is not required to advise an offeror of a minor weakness that is not considered significant, even where the weakness subsequently becomes a determinative factor in choosing between two closely ranked proposals. We review the discussions provided only to determine whether the agency pointed out weaknesses that, unless corrected, would prevent an offeror from having a reasonable chance for award. Northrop Grumman Info. Tech., Inc., B-290080 *et al.*, June 10, 2002, 2002 CPD ¶ 136 at 6.

The agency's decision not to discuss SCI's past performance record is unobjectionable. As discussed above, the agency reasonably found that SCI's past performance submissions, on their face, were only partially relevant, and thus would not support a rating of high confidence. An agency must discuss significant weaknesses and adverse past performance information to which an offeror has not yet had an opportunity to respond. Federal Acquisition Regulation § 15.306(d)(3). However, the agency had no questions about the relevance of SCI's past performance and considered the unknown confidence rating to be essentially neutral and not adverse in the sense that it reflected a finding of a history of performance problems. Contracting Officer's Statement at 6; AR at 12. Where the nature and ultimate relevance of past performance information is clear to the agency, and the offeror received a neutral rating, the agency need not conduct discussions or otherwise communicate with the offeror regarding the information. See CMC & Maint., Inc., B-292081, May 19, 2003, 2003 CPD ¶ 107 at 3; Caltech Serv. Corp., B-261044.4, Dec. 14, 1995, 95-2 CPD ¶ 285 at 7 n.9. Moreover, while SCI asserts that it could have improved its rating through discussions, it has not provided any persuasive explanation of how its and its subcontractors' past performance was more relevant than as evaluated by the SSET.

PRICE EVALUATION

SCI asserts that the agency unreasonably determined that its price posed a risk because it was substantially below the IGE.⁷

⁷ SCI asserts that the agency took various steps to favor dNovus, including adjusting its budget/IGE to match dNovus's original price. Government officials are presumed (continued...)

SCI's assertion is without merit. While SCI offered an explanation for its price reductions--e.g., [deleted]--this explanation was not sufficient to persuade the agency that there was no risk as a result of the price reduction. In this regard, the RFP specifically provided that proposed prices would be evaluated to determine if they were unreasonably high or low in relation to the IGE, the offeror's technical approach, and other offerors' proposed prices. RFP at 41. In evaluating SCI's first price reduction (approximately [deleted] percent), the agency concluded that SCI's price was "of concern," since team experience had shown that prices as low as those proposed by SCI were risky. AR, Tab 17a, at 5. As discussed above regarding program management risk, when the SSET evaluated SCI's FPR (an additional [deleted] reduction), it was concerned that this lowered price indicated a lack of understanding, since in many instances SCI's proposed labor rates were significantly lower than government estimates and current contract rates. AR, Tab 23, at 5-6. The SSET anticipated that low labor rates posed a risk to the execution of the SOW and increased the risk associated with the offeror's ability to execute its proposed approach. AR, Tab 25, at 4. While the SSET believed that short-term success was possible, it concluded that there was significant risk associated with mid- to long-term personnel retention. *Id.* Since SCI's proposed price was significantly lower than the IGE (by approximately \$6.5 million) and all of the other offerors' prices, the agency reasonably concluded that SCI's low price posed a risk, notwithstanding the firm's explanation.

SCI also asserts that it was misled by the agency's disclosure of the IGE and budget in the RFP. SCI Comments at 18. Specifically, SCI claims, it was misled into believing that the IGE was higher than the agency's revised budget. However, since SCI's price was significantly lower than the disclosed figure, we fail to see--and SCI does not adequately explain--how its belief that the IGE was higher than the budget amount could have affected its pricing. Moreover, even assuming that SCI was misled as it claims, the record shows that all offerors' prices, including SCI's, were evaluated against the \$31.3 million budget amount that was disclosed to SCI for use in proposing its revised and FPR prices. We conclude that this argument is without merit.

(...continued)

to act in good faith; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Triton Marine Constr. Corp., B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171 at 6. According to the evaluation record, the original IGE/budget was based on the cost of three prior contracts; the revised figure reflected consolidation of the separate contracts and the effect of competition. AR, Tab 23, at 6. SCI's unsubstantiated speculation is insufficient to establish bias.

PRICE-TECHNICAL TRADEOFF

SCI asserts that the agency's price-technical tradeoff decision is not supported by the record. In the protester's view, it is unreasonable to pay a price premium for dNovus's proposal.

Where, as here, the RFP allows for a price-technical tradeoff, the agency has discretion to select a higher-priced, technically higher-rated submission, if doing so is in the government's best interest and is consistent with the solicitation's stated evaluation and source selection scheme. University of Kansas Med. Ctr., B-278400, Jan. 26, 1998, 98-1 CPD ¶ 120 at 6. The agency's judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. Chemical Demilitarization Assocs., B-277700, Nov. 13, 1997, 98-1 CPD ¶ 171 at 6.

The tradeoff was reasonable. In making her source selection, the SSA prepared a detailed decision document comparing dNovus's proposal to the other evaluated proposals and specifically identified the advantages she found in dNovus's proposal. For example, she noted its superior past performance on two relevant contracts; its blue, low risk ratings under the program management subfactor; and the comprehensive nature of its staffing proposal and risk mitigation plan. The SSA acknowledged SCI's lower price, but agreed with the SSET that it carried risk. AR, Tab 25, at 7. The SSA specifically found that dNovus's proposal's higher price was justified by the greater risk and decreased confidence level associated with the lower-priced proposals, including SCI's. Id. at 8-9. This conclusion was reasonable, particularly in light of the significantly greater importance accorded technical factors under the RFP. SCI's belief that the price premium is too great constitutes no more than disagreement with the agency's judgment, and is not sufficient to establish that the tradeoff was unreasonable. See General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44 at 11 (tradeoff reasonable where agency determined that technical superiority of awardee's proposal was sufficient to offset 125-percent higher cost).

The protest is denied.

Anthony H. Gamboa
General Counsel