



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Electrosoft Services, Inc.

File: B-413661; B-413661.2

Date: December 8, 2016

Katherine S. Nucci, Esq., Scott F. Lane, Esq., and Jayna M. Rust, Esq., Thompson Coburn LLP, for the protester.

John E. Cornell, Esq., and Christine L. Krell, Esq., General Services Administration, for the agency.

Francis E. Purcell Jr., Esq., Erin M. Estevez, Esq., Thomas O. Mason, Esq., Cooley LLP, for Certipath, Inc., an intervenor.

Lois Hanshaw, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's challenge to the agency's evaluation of quotations and award decision is denied where record shows that the evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Electrosoft Services, Inc. (Electrosoft), of Reston, Virginia, protests the issuance of a task order to Certipath, Inc., of Reston, Virginia, under request for quotations (RFQ) No. D14160153, issued by the General Services Administration (GSA) for technical professional services related to GSA's federal identity, credential and access management (FICAM) program.¹ Electrosoft challenges the agency's evaluation of quotations and the source selection decision.

We deny the protest.

¹ The FICAM program coordinates the government-wide civilian agency execution of policies and standards, and implementation of identity, credential, and access management (ICAM) solutions and security controls. RFQ at 24.

BACKGROUND

On June 21, 2016, the RFQ was issued under Federal Acquisition Regulation (FAR) subpart 8.4, Federal Supply Schedule (FSS) procedures. RFQ at 1. The RFQ was set aside for small business vendors holding a current FSS contract under Schedule 70, special item numbers (SINs) 132-51 and/or 132-62. Id. at 2. The RFQ contemplated the issuance of a time-and-materials task order for a base year, with four one-year option periods. Id. Award was to be made on a best-value basis considering price and technical capabilities. Id. at 13. The RFQ also required that quotations demonstrate a clear understanding of the nature and scope of the work required. Id. at 12. Additionally, the RFQ cautioned vendors that in making its best-value decision, the agency might not necessarily issue an award to the lowest-priced or most highly-rated technical quotation. Id.

The RFQ required vendors to submit a technical capability and price package. Id. at 5. The technical capability package would address the technical capability evaluation factor, which consisted of the following subfactors: (1) technical approach; (2) team organization and staffing approach (staffing approach); (3) experience; and (4) past performance. Id.

The RFQ stated that for the technical evaluation, the technical capability subfactors were neither separately weighted, nor listed in any order of importance, but rather were separate factors that would be evaluated individually. Id. at 13. Additionally, the RFQ stated that these subfactors would be considered together in order to assign a single rating for the technical capability factor. Id. The RFQ noted that the technical subfactors, when combined, were considered to be significantly more important than price. Id.

Among other things, the RFQ stated that the agency expected a vendor's response to the technical approach to provide innovative and total solutions for tasks presented in the performance work statement (PWS), and required quotations to demonstrate the vendor's qualifications in this regard. Id. at 6. The RFQ required vendors to submit a technical approach narrative addressing four topic areas: (1) physical access control systems (PACS), logical access control systems, and derived personal identification verification (PIV) credential design, evaluation support, and testing (PACS testing); (2) PIV/PIV-Interoperable (PIV-I) card and certificate testing (PIV testing); (3) identity, credential, and access management (ICAM) technical architecture and implementation guidance development (ICAM development); and (4) federal public key infrastructure (FPKI) Security Compliance (FPKI compliance). Id. at 6-8. The solicitation provided a list of specific elements to be addressed for each topic area, and instructed vendors that, in addressing the four topic areas, quotations had to demonstrate the vendor's understanding of, and its method for ensuring, innovative, integrated, and complete service delivery of the PWS tasks related to the topic area. Id.

On July 8, the agency received three quotations, including Electrosoft's and Certipath's. Agency Report (AR), Exh. 10, Award Decision, at 5. A technical evaluation team (TET), composed of FICAM stakeholders, evaluated quotations. AR, Exh. 9, TET Report, at 2. First, the TET members individually evaluated and assigned adjectival ratings to the four technical subfactors. Id. Next, the members discussed their individual adjectival ratings for the subfactors and reached a consensus adjectival rating for each quotation under the technical capability factor. Id.

The consensus evaluation ratings were as follows:

	Electrosoft	Certipath
Technical Capabilities Factor²	Acceptable	Very Good
Price	\$26,555,721	\$35,334,176

AR, Exh. 10, Award Decision, at 7.

In its evaluation of Electrosoft's quotation, the TET assessed two strengths and eight weaknesses under the technical approach subfactor, and no strengths and one weakness under the staffing approach subfactor. Id. at 14-17. With regard to the experience and past performance subfactors, the agency concluded that Electrosoft's identified experience and past performance references were appropriate, relevant, and met the requirement. Id. at 18.

Certipath's technical approach was assessed four strengths and two weaknesses, while its staffing approach was found to have one strength and one weakness. Id. at 6-8. The agency determined that Certipath's quotation identified experience and past performance references that were relevant, and similar in scope and requirement, to the RFQ. Id. at 18.

The contracting officer, acting as the source selection authority (SSA), selected Certipath's quotation as representing the best value to the government. Id. at 10. In this regard, the SSA noted that the agency clearly articulated in the RFQ that it was seeking a contractor that could implement innovative techniques and processes, and that Certipath's quotation offered this. Id. at 9, 10. In determining the best value, the agency not only recognized that Electrosoft offered a lower price, but also considered whether Certipath's technical solution was worth the additional costs to the government. Id. at 9. In this regard, the SSA acknowledged that

² The RFQ reserved a very good rating for a quotation that required little additional oversight by the government after considering all subfactors, and an acceptable rating for a quotation that requires some additional oversight by the government. Id. at 13.

Electrosoft's technical rating was only one rating level below Certipath's technical rating; nonetheless, the agency's analysis of the subfactors, particularly the technical approach and staffing approach subfactors, revealed more significant differences between the two quotations than was apparent from the ratings alone. Id. The SSA concluded that the innovative techniques and processes incorporated into Certipath's quotation warranted award, despite its higher price. Id. at 10.

Additionally, the SSA noted that Certipath's quotation brought substantial value that the other vendors did not, such as Certipath's historical knowledge and understanding of the FICAM program and lower transition costs. Id. The SSA also noted that Certipath's quotation presented substantially less risk in terms of cost, time, and quality when compared to Electrosoft's offer, taking into account an assessed gap in Electrosoft's knowledge and program awareness. Id.

On August 29, GSA notified Electrosoft of the award, and on August 31, Electrosoft protested to our Office.

DISCUSSION

Electrosoft's protest challenges numerous aspects of the agency's technical evaluation and the resulting source selection decision.³ The protester challenges the weaknesses assessed in its quotation under the technical and staffing approach subfactors, and contends that its quotation deserved higher ratings for the experience and past performance subfactors. Protest at 12, 20, 23. Electrosoft also complains that the agency's evaluation improperly weighted the technical subfactors, relied on unstated evaluation criteria in evaluating Certipath's quotation, and treated vendors in a disparate manner. Protester's Comments and Supp. Protest at 12, 14, 25. Lastly, the protester raises various objections to the tradeoff and award decision. Id. at 27; Protest at 27.

Where, as here, an agency issues an RFQ to FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. Tech. & Telecomms. Consultants, Inc., B-413301, B-413301.2, Sept. 28, 2016, 2016 CPD ¶ 276 at 4. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the

³ The protester initially challenged the agency's evaluation of Certipath's quotation, asserting that Certipath did not possess the expertise and experience necessary to perform the acquisition, and alleged that Certipath had an impaired objectivity conflict of interest (OCI). Protest at 24, 25. In its comments, the protester abandoned its challenge to the evaluation of Certipath's quotation and withdrew its assertion that Certipath had an OCI. Protester's Comments and Supp. Protest at 2 n.2.

record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Electrosoft Servs., Inc., B-409065 et al., Jan. 27, 2014, 2014 CPD ¶ 252 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4.

We have considered all of the protester's arguments and, based on the contemporaneous record, find that none provides a basis to sustain the protest. With regard to Electrosoft's challenge to the evaluation of its technical approach, we conclude that although the protester identified an apparent error in the evaluation of one aspect of its quotation, the record does not show that the protester was prejudiced because the cumulative evaluation--including the assessment of Electrosoft's remaining weaknesses--was reasonable. For these reasons, we deny the protest, as explained in further detail below.

Evaluation of Electrosoft's Technical Approach

Electrosoft challenges the eight weaknesses assessed under the technical approach subfactor. After reviewing each of these weaknesses, we find the record supports the agency's assessments regarding seven of the weaknesses, but find the record unpersuasive with regard to a weakness the TET identified pertaining to Electrosoft's approach to supporting the shared-service-provider working group (SSPWG). However, our review of the record as a whole leads us to conclude that even though we agree with Electrosoft's challenge to this one weakness, it is not enough to outweigh the remaining seven reasonably-assessed weaknesses and thus would not change the overall rating assigned for this subfactor or alter the protester's relative competitive standing.⁴

Although we do not discuss every issue raised, as stated above, we have reviewed each issue and conclude that none presents a basis to sustain the protest. We discuss a few illustrative examples below.

Electrosoft generally argues that the assessed weaknesses were unreasonable either because the protester's quotation proposed innovation that the agency simply failed to recognize, or because the requirement (and the evaluation thereof) was based on information that only the incumbent could know. Protest at 12. For example, Electrosoft challenges the agency's assessment of two weaknesses

⁴ We note, in this regard, that our analysis is not based simply on the number of weaknesses that were reasonably assessed, but instead, is informed by the recurrent criticism of Electrosoft's failure to propose the level of innovation that the solicitation sought.

(Weakness 1 and 2)⁵ in which the agency determined that the protester's quotation lacked innovation in addressing the requirements for PACS testing and FPKI compliance, respectively. Protest at 13-17. The record shows that the agency assessed these weaknesses based on the "lack of clearly identified innovation and innovative approaches to achieving goals." AR, Exh. 9, TET Report, at 15. In its protest, Electrosoft disagrees with the agency's evaluation, and reiterates various sections of its quotation that it contends should have been viewed as innovative. Protest at 13-17. In this regard, Electrosoft expresses its disagreement with the agency's evaluation but provides no explanation or details to demonstrate how its quotation offered an innovative approach or solution in this area. We conclude that Electrosoft's disagreement with the agency's evaluation, without more, does not show that the evaluation was unreasonable.

In another example, with regard to Weakness 4, in which the agency determined that Electrosoft's quotation reflected a lack of understanding of the current environment for PACS testing, the protester contends that the validity of the agency's criticism could not properly be determined without insider knowledge of the current environment. Protest at 18. The record shows the agency assessed this weakness because it concluded that the protester's proposed solution had already been addressed, three years ago, and therefore represented a lack of understanding of the current state of the program. The evaluators viewed this as posing a risk that the agency would have to provide increased oversight to ensure it was not incurring the expense and delay involved in duplicating work that had already been accomplished. AR, Exh. 9, TET Report, at 16. In response, the protester does not contend that the weakness was improperly assessed per se, or dispute whether the program had, in fact, already addressed the issue; rather, the protester contends that it does not know whether the agency's critique is valid because Electrosoft lacks "insider knowledge of the minutiae of the current environment." Protest at 18. Because this argument fails to show that the assessment of this weakness as stated in the record was unreasonable, we have no basis to question the agency's evaluation.⁶

⁵ The protest numbered the assessed weaknesses from 1 to 8. Protest at 12-18; See Protester's Comments and Supp. Protest at 6. For clarity, we cite to the numbering provided by the protester.

⁶ To the extent the protester relies on this same basis to challenge two additional weaknesses (Weaknesses 5 and 6), related to testing PACS configurations and continuous diagnostics mitigation, respectively, we similarly find no merit to these arguments. Additionally, for these weaknesses, the record shows that the agency referenced publicly available information to show that the program had already addressed the solution proposed by the protester. See AR, Exh. 9, TET Report, at 16-17.

With regard to the protester's challenge to the agency's assessment of the last weakness that we will address here, Weakness 7, we conclude that the agency's evaluation was unreasonable. The agency assessed this weakness based on its conclusion that statements in the quotation showed that Electrosoft did not understand the current process for supporting the SSPWG. Here, the PWS stated that the contractor would be required "to support the regular meetings" of the certificate-policy and shared-service-provider working groups (CPWG and SSPWG), and listed related tasks the contractor would perform, such as assisting in scheduling and planning agenda items and delivering presentations at the meetings. PWS at 35. The protester's quotation stated, "much of the technical work of the FPKIPA (federal public key infrastructure policy authority) occurs in the [CPWG and SSPWG]." AR, Exh. 6, Electrosoft Quotation, at 28. Noting this statement in the protester's quotation, the agency assessed a weakness in this area, stating that the SSPWG had not met in years and that Electrosoft's reliance on a currently inactive body as part of its technical solution presented an increased performance risk. AR, Exh. 9, TET Report, at 16. Electrosoft essentially protests the assessment of this weakness as inconsistent with the terms of the RFQ. Protester's Comments and Supp. Protest at 20. The agency's legal memorandum submitted in response to the protest does not provide a response to this issue.⁷ In our view, because the RFQ required a vendor to support the SSPWG, it is unreasonable for the evaluation to penalize the vendor, as lacking an understanding of the current environment, when it proposed to provide the required support.

Thus, although we view one of the protester's eight weaknesses to be unreasonably assessed, there is no reasonable possibility the protester was prejudiced by the agency's evaluation in this one regard. Based on our review of the record, the agency reasonably assessed seven of the eight weaknesses identified in Electrosoft's quotation under the technical approach. Accordingly, where the record does not demonstrate that, but for the agency's actions, the protester would have had a reasonable chance of receiving the award, our Office will not sustain a protest, even if a deficiency in the evaluation is found. Savantage Financial Servs., Inc., B-411647, B-411647.2, Sept. 17, 2015, 2015 CPD ¶ 286 at 4 n.1. This aspect of the protest is denied.

⁷ The supplemental legal memorandum declined to provide a response to this issue. Supp. Legal Memorandum at 1.

Disparate Treatment Challenge

Electrosoft raises nine arguments in support of its contention that the agency evaluated the protester's and awardee's quotations in a disparate manner. In response, the agency asserts that the protester's arguments either constitute disagreement, or fail to recognize that strengths were assessed based on the differences in the parties' quotations. On this record, we find no merit to the protester's challenges.⁸

For example, the protester asserts that Certipath's quotation was assessed a strength for proposing "[deleted]" while Electrosoft's quotation, which proposed "[deleted]" was not assessed a strength. Protester's Comments and Supp. Protest at 16. The agency responds that Electrosoft's argument ignores the context of Certipath's [deleted] solution, which broadly proposed to provide services in support of the requirements for PACS testing, while Electrosoft's [deleted] solution was proposed in "an unrelated and narrower context" in response to a single PWS section. Supp. Legal Memorandum at 6. The record supports the agency's differing treatment of the two quotations, based on the distinctions noted by the agency, and apparent in the contemporaneous record. Tetra Tech AMT, B-411934.2, B-411934.3, May 17, 2016, 2016 CPD ¶ 136 at 7.

Best-Value Tradeoff and Award Decision

With respect to GSA's award decision, where an acquisition conducted pursuant to FAR subpart 8.4 provides for award on a "best value" basis, it is the function of the source selection authority to perform a price/technical tradeoff to determine whether a quotation's technical superiority is worth its higher price. SoBran, Inc., B-408420, B-408420.2, Sept. 10, 2013, 2013 CPD ¶ 221 at 4; InnovaTech, Inc., B-402415, Apr. 8, 2010, 2010 CPD ¶ 94 at 6. For FAR subpart 8.4 acquisitions that require a statement of work, such as this one, FAR § 8.405-2(f) specifically requires documentation of the rationale for any tradeoffs made in the selection. This rationale, or source selection decision documentation, must be in sufficient detail to show that it is reasonable. See Amyx, Inc., B-410623, B-410623.2, Jan. 16, 2015, 2015 CPD ¶ 45 at 17.

Here, the RFQ stated that the technical subfactors, when combined, were significantly more important than the price factor. RFQ at 13. Further, the agency cautioned vendors that award would not necessarily be made to the lowest-priced or most highly-rated technical quotation. Id. at 12.

⁸ Although we have reviewed each of Electrosoft's arguments in this area, we limit our discussion to the representative example, above. We find that none of the protester's many arguments provides a basis to sustain the protest.

The SSA conducted a tradeoff between Electrosoft's and Certipath's quotations and concluded that Certipath's quotation represented the best value because its technical solution clearly articulated that it could implement innovative techniques and processes, and demonstrated a fuller understanding and awareness of the current environment. AR, Exh. 10, Award Decision, at 9-10. The SSA also stated that Certipath's quotation, through its historical knowledge and understanding of the FICAM program, demonstrated substantial value, while Electrosoft's quotation did not show the same level of understanding and awareness of the requirement's current environment. Id. at 10. As a result, the SSA concluded that the technical benefits of Certipath's quotation provided the best value to the government. Id. at 9-10.

On this record, there is no basis to conclude that the SSA failed to analyze the qualitative differences between the proposals, failed to adequately document the record, or unreasonably concluded that the higher-rated, higher-priced proposal was the best value to the government.⁹ Therefore, we deny these protest allegations.

The protest is denied.

Susan A. Poling
General Counsel

⁹ To the extent the protester asserts that the award decision, or the evaluation of Certipath's proposal, relied on unstated evaluation criteria, such as the risks and cost of transitioning to a new contractor, Electrosoft's arguments appear to be no more than a complaint that Certipath may have some advantage as the incumbent contractor. The existence of an incumbent advantage, in and of itself, does not constitute preferential treatment by the agency, nor is such a normally occurring advantage necessarily unfair. Diversity Marketing & Commc'ns, LLC, B-412196.2, Mar. 9, 2016, 2016 CPD ¶ 84 at 5-6.