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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: HealthStar VA, PLLC

File: B-299737

Date: June 22, 2007

Jason A. Stuart, Esq., Ball & Stuart, PLLC, for the protester.
Dennis Foley, Esq., Department of Veterans Affairs, for the agency.
Nora K. Adkins, Esq., and James Spangenberg, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

It is the offeror's burden to submit an adequately written proposal; an offeror, including an incumbent contractor, must furnish, within its proposal, all information that was requested or necessary to demonstrate its capabilities in response to the solicitation.

DECISION

HealthStar VA, PLLC protests the award of a contract to Valor Health Care, issued by the Department of Veterans Affairs, under request for proposals (RFP) No. 598A-77-05, for a community based outpatient clinic in the Hot Springs, Arkansas area to provide primary medical care for assigned veteran patients.

We deny the protest.

The RFP informed offerors that the proposal was required to be submitted in two separate volumes: volume I - the business proposal and volume II - the technical proposal, and "must include all information that the government requests." RFP amend. 3, at 62. The technical proposal was limited to 75 pages and was to be formatted to coincide with the four evaluation factors: Factor A -- Provision of Services, Factor B -- Customer Service, Factor C -- Quality Management, and Factor D -- Past Performance. *Id.* at 63-64. The technical proposal instructions stated that the technical proposal "should be specific and complete" and that "simply repeating or paraphrasing the Statement of Work/Specification is not acceptable." *Id.* at 64. The instructions for Factor C required each proposal to provide, "licensing and accreditation of [the] facility[,] . . . applications and proof of licensure for all

professional staff[,] . . . and evidence that the support staff is competent within the scope of their positions, with education and/or experience levels.” Id. at 69

The basis of award weighted technical merit at 75 percent and price at 25 percent. Id. at 64. The RFP also stated that as the technical merit of the proposals became more equal, price may become the determining factor. Id. The RFP stated that the agency planned to evaluate proposals and make award without discussions, so that initial proposals should contain the offeror’s best terms from a price and technical standpoint. Id. at 60.

Four proposals, including HealthStar’s and Valor’s, were received by the February 9 closing date. The source selection evaluation team (SSET) determined that only HealthStar’s and Valor’s proposals were technically acceptable. Neither of these proposals was found to represent a significant technical advantage by the source selection authority. Since Valor offered the lower price at \$8,489,761 as compared to HealthStar’s \$9,117,371, Valor was selected for award. Agency Report, Tab 8, Source Selection Document, at 2-3.

After award was made, the agency conducted a debriefing with HealthStar on April 23. During the debriefing, HealthStar was informed of two significant weaknesses found in its proposal: a failure to adequately address the services to be provided for patient-focused care and a failure to provide proof of licensing of nursing staff and competency of support staff. This protest followed on April 26.

Our review of HealthStar’s proposal indicates that the assignment of these two weaknesses was well-founded. Nevertheless, HealthStar, the incumbent contractor, complains that it was not evaluated in a reasonable manner because the agency should have considered its knowledge of its incumbent contract performance in evaluating these areas. In its protest filings addressing the patient-focused care weakness, HealthStar details in its protest a plethora of patient-focused services, which were admittedly not identified in its proposal due to page constraints. With regard to the other significant weakness, HealthStar asserts that its proposal stated that all professional staff were licensed, in good standing, credentialed in the Veterans Administration system, and that copies, while not included in its proposal, were available on file in the Central Arkansas Veterans Healthcare System or would be provided upon request; again, HealthStar asserts that the agency was aware of these licenses because of its incumbent status, which were not submitted due to the page limitations.

An offeror’s technical evaluation is dependent upon the information furnished; there is no legal basis for favoring a firm with presumptions on the basis of its incumbent status. It is the offeror’s burden to submit an adequately written proposal; an offeror, including an incumbent contractor, must furnish, within its proposal, all information that was requested or necessary to demonstrate its capabilities in response to the solicitation. Computerized Project Mgmt. Plus, B-247063, Apr. 28, 1992, 92-1 CPD ¶ 401 at 3. Based on this record, the agency’s assignment of the two

weaknesses to HealthStar's proposal because it did not provide the information requested by the RFP was reasonable.¹

The protest is denied.

Gary L. Kepplinger
General Counsel

¹ To the extent that HealthStar complains about the solicitation's page limit restrictions, this concerns an apparent solicitation impropriety that must be protested prior to the closing time for receipt of proposals in order to be timely under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(1) (2007).