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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: DSS Healthcare Solutions, LLC

File: B-403713.3

Date: June 22, 2011

Daniel S. Koch, Esq., Paley Rothman, for the protester.
Robert A. Russo, Esq., Frank V. DiNicola, Esq., and Desiree A. DiCorcia, Esq.,
Department of Veterans Affairs, for the agency.
Mary G. Curcio, Esq., and David A. Ashen, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency used unstated evaluation criteria in evaluating offerors' responses to sample task orders is denied where agency consideration of whether responses addressed the specific tasks necessary for successful performance of the overall sample tasks was reasonably related to the stated evaluation criteria for understanding of the problems regarding, and feasibility of approach to, the sample tasks.
 2. Protest that agency unreasonably evaluated responses to sample task orders is denied where agency reasonably concluded that protester did not include sufficient information in its proposal to demonstrate that the protester understood the tasks.
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DECISION

DSS Healthcare Solutions, LLC, of Jupiter, Florida, protests the elimination from the competitive range of the proposal it submitted in response to the Department of Veterans Affairs (VA) request for proposals (RFP) No. VA118-10-RP-0052, for information technology equipment and services. DSS challenges the evaluation of its proposal.

We deny the protest.

The solicitation provided for the award of up to 15 contracts on a "best value" basis considering the following factors: technical (with subfactors for management and sample task orders (STO)), past performance, veterans involvement, small business participation commitment, and price. RFP § M.2.A. The agency received more than 90 proposals, including 1 from DSS. DSS's proposal was rated acceptable for the

technical and management factors, low risk for past performance, susceptible to being made acceptable for small business participation commitment, and was given full credit for veterans involvement. VA determined that DSS's proposal was not one of the most highly rated, and on this basis did not include it in the competitive range.

DSS protests that the agency used undisclosed evaluation criteria, and otherwise unreasonably evaluated its proposal under the STOs and the management subfactor.

Unstated Evaluation Criteria

The solicitation included three sample task orders (STO 1, STO 2, and STO 3), the responses to which were to be evaluated as follows:

The Sample Tasks are designed to test the offeror's expertise and innovative capabilities to respond to the types of situations that may be encountered in performance. . . Accordingly, the offerors will not be given an opportunity to correct or revise a sample task response. The evaluation of each sample task will consider the following:

(1) Understanding of Problems--The proposal will be evaluated to determine the extent to which the offeror demonstrates a clear understanding of all features involved in solving the problems and meeting the requirements presented by the sample task; and the extent to which uncertainties are identified and resolutions proposed.

(2) Feasibility of Approach--The proposal will be evaluated to determine whether the offeror's methods and approach to meeting the sample task requirements provided the Government with a high level of confidence of successful completion. The evaluation will also consider the realism of the labor categories being proposed in the offeror's response to the sample tasks.

RFP § M.2.C.

DSS was rated acceptable for STO 1, unacceptable for STO 2, and good for STO 3. DSS asserts that the agency used unstated criteria in evaluating its responses to the STOs. Specifically, DSS notes that for each STO the agency compiled a list of task areas and subtasks that an offeror was required to address to receive evaluation credit. We have reviewed this assertion and find it without merit. We discuss the issue with respect to STO 2 below.

The solicitation required offerors under STO 2 (software development) to design, develop and field a single financial system to replace three current systems used by approximately 100,000 VA personnel. Offerors were required to describe their

approach to how they would execute all tasks necessary for this effort, and list the labor categories required to perform each effort of the task. RFP § J, attach. 15, STO 2.

As part of its evaluation of offerors' STO responses, the agency prepared a list of key focus areas and lower level focus areas that it believed an offeror would have to address to demonstrate that it understood the task and had a feasible approach to solving it. With respect to STO 2, the key focus areas and lower level focus areas were: project management (stakeholders, resources/labor categories, project schedule, and project management processes including change management, configuration management, risk management, quality assurance, communications, tools, and integrated product teams); policy understanding (compliance with government policy and standards for a technical reference model, VA Enterprise Architecture (EA), Office of the Management and Budget financial guidelines, and security policies); software solution (business process gap analysis, system architecture design, development process that takes into account system capacity requirements, and data warehouse/reporting capability); data migration (data migration planning, data requirements sessions with legacy system owners/users, data cleansing strategy, and migration process); training (training strategy and plan, developing training materials, training environment, and training delivery); testing (test planning, methods for test support, conducting tests, and providing test activities); and deployment/post go-live support (support planning, fielding strategy, help desk, and support teams). Technical Factor Ratings at 18. The agency asserts that the above considerations were related to the stated evaluation criteria and thus were properly considered.

While solicitations must inform offerors of the basis for proposal evaluation, and the evaluation must be based on the factors set forth in the solicitation, Federal Acquisition Regulation § 15.304, agencies are not required to specifically list every area that may be taken into account, provided such areas are reasonably related to or encompassed by the stated criteria. AIA-Todini-Lotos, B-294337, Oct. 15, 2004, 2004 CPD ¶ 211 at 8.

Here, the key focus and lower level focus areas that the agency considered in evaluating STO 2 were reasonably related to or encompassed by the stated criteria, and thus were not improper unstated evaluation criteria. As noted, the solicitation provided that the offeror's response to the sample task would be evaluated to determine whether the offeror understood the problem and had a feasible approach to solving it. RFP § M.2.C. Understanding and feasibility of approach, however, are not factors that can be evaluated on their own, without reference to the work to be accomplished. In this regard, STO 2 instructed offerors to describe how they would execute all tasks necessary for the effort. RFP § J, attach. 15, STO 2. It follows then, that offerors were on notice that, in evaluating understanding and feasibility of approach, the agency was going to consider the tasks it believed were necessary to perform the sample task. DSS has furnished no basis for us to conclude that such

areas considered by the agency as project management, policy understanding, testing and training, and the elements that comprise these broader areas such as stakeholder involvement and compliance with government policies, were not reasonably related to performing the overall STO 2.¹

Unreasonable Evaluation

DSS, however, further asserts that even apart from the issue of unstated criteria, the evaluation of its proposal was unreasonable. In this regard, DSS challenges numerous weaknesses and significant weaknesses assigned by the agency, asserting that in each case its proposal was sufficient. Where an agency's evaluation is challenged, we will consider whether the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Philips Med. Sys. of N. Am. Co., B-293945.2, June 17, 2004, 2004 CPD ¶ 129 at 2. We have reviewed the record and find DSS's arguments to be without merit. We discuss several of those arguments below.

DSS asserts that the agency overlooked information in its proposal. For example, with respect to STO 2, the agency assigned its proposal a weakness on the basis that DSS did not demonstrate that it understood VA policy regarding software design and development initiatives. According to the protester, it addressed this issue in its proposal when it stated: [deleted]

The agency explains that this statement in DSS's proposal addressed only financial policies and requirements, and then only minimally. According to the agency, the evaluated weakness was based on, among other things, its determination that DSS's proposal did not indicate an understanding of compliance with the applicable information technology policies and standards. Agency Supplemental Statement, June 14, 2011, at 2-3. More specifically, the agency determined that DSS's proposal did not demonstrate a full understanding of, or capability to comply with, VA Directive 6051, which is required as part of establishing and implementing VA's integrated One-VA EA.² For example, the proposal lacked details with respect to

¹The protester asserts that the solicitation was ambiguous because the agency evaluated the offeror's proposed process to reach a solution for each STO, while the solicitation requested, and DSS proposed, an actual solution. Our review of the record does not indicate any ambiguity. Rather, the record shows that the agency asked offerors in the solicitation to provide their approach to solving a STO and that is what the agency evaluated.

² One-VA EA establishes a common vocabulary and structure for information technology used to develop, operate and maintain enterprise applications for the VA. All VA information technology systems must comply with One-VA EA. Agency Supplemental Statement (June 14, 2011).

adhering to the technical reference model, including the standards profile and products list that serves as a VA technology roadmap. In sum, according to the agency, the proposal provided only minimal detail with respect to the One-VA EA. COS at 15.

In response, the protester asserts that the agency should have recognized that DSS, with its substantial expertise with One-VA EA, would comply with mandatory standards and practices required for VA development initiatives. However, the fact that DSS has experience with One-VA EA is not sufficient since DSS did not address the policies and standards in its proposal. In this regard, it is incumbent on a protester to prepare an adequate proposal; the protester cannot use its experience as a substitute for meeting this obligation. SPAAN Tech, Inc., B-400406, B-400406.2, Oct. 28, 2008, 2009 CPD ¶ 46 at 7. Accordingly, the agency reasonably assigned the proposal a weakness on account of an inadequate discussion of DSS's approach to performing the STO 2 software design and development effort in a VA environment.

The protester also contends that the agency criticized its proposal with respect to One-VA and enterprise architecture because it did not contain required buzzwords, specifically, references to the technical reference model and enterprise architecture. According to DSS, since it is an expert in these areas it was able to propose elements drawn from them, without explaining their origins. To demonstrate, DSS points to this statement in its proposal: [deleted] Proposal, STO 2, at 6.

The agency denies that it faulted DSS's proposal simply because it failed to use specific terminology. Instead, the agency explains that DSS's proposal was downgraded because it did not sufficiently demonstrate that DSS understood applicable policy because it did not discuss VA standards as applied to the DSS solution. COS at 16. According to the agency, without an explanation of the application of the VA standards, it was not clear that DSS was capable of implementing the required integrated One-VA EA. DSS does not respond to the agency's explanation of how DSS's proposal was rated, and we have no basis to question the evaluation in this regard as unreasonable.

The VA also assigned DSS's proposal a significant weakness under STO 2 for data migration, finding the proposal lacked an overall approach and strategy. COS at 17. According to DSS it adequately addressed data migration through a series of questions that would have to be answered in order to best determine the approach to data migration. The agency agrees that DSS's proposal lists five questions related to data migration, [deleted]. The agency, however, maintains that DSS did not provide details regarding an overall strategy for accomplishing the data migration effort. Among other things, according to the agency, DSS did not identify the different types of data to be migrated or specific data objects, and did not discuss government review and approval of generated data migration plans, establishing/maintaining a staging environment for migration processing, and executing mock or trial migration loads. Id. Again, DSS does not address the

agency's explanation; the protester neither refutes the agency's determination that its proposal lacked this information regarding a data migration approach, nor explains why the missing information was not relevant to whether data migration would be successful. In these circumstances, we have no basis to question the evaluation.³

The detail provided in response to a STO is a legitimate consideration in assessing an offeror's understanding and proposed solution. Trellclean, U.S.A., B-213227.2, June 25, 1984, 84-1 CPD ¶ 661 at 8. In this case, the lack of detail led to the inability of the agency to effectively evaluate DSS's understanding of the problem and proposed solution. Since an agency's evaluation is dependent on the information furnished in a proposal, it is the offeror's responsibility to submit an adequately written proposal for the agency to evaluate. Id. An offeror that fails to do so runs the risk that its proposal will be evaluated unfavorably. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6. Here, we find that the record supports the reasonableness of the agency's evaluation of DSS's proposal.

The protest is denied.

Lynn H. Gibson
General Counsel

³ DSS also asserts that in some cases the information the agency was looking for was included in the management portion of the proposal rather than in the STO portion. We find that the agency reasonably considered only the information in the specific electronic file responding to a subfactor when evaluating the proposal under that subfactor. In this regard, the solicitation specifically instructed offerors to include information for each of the STOs and the management subfactor in separate electronic files, and provided strict page limits for each file. RFP § L.7.2. DSS ignored this instruction at its own risk.