



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Dellew-Olympus JV

File: B-406226; B-406226.2

Date: March 9, 2012

Ruth E. Ganister, Esq., Rosenthal and Ganister, LLC, for the protester.
Susan L. Schor, Esq., and David A. Edelstein, Esq., Asmar, Schor & McKenna, PLLC, for Satellite Services, Inc., the intervenor.
Jay Bernstein, Esq., and Mel Myers, Esq., General Services Administration, for the agency.
Kenneth Kilgour, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency misevaluated protester's proposal is denied where record indicates that the agency's evaluation was consistent with terms of solicitation.

DECISION

Dellew-Olympus Joint Venture, of Honolulu, Hawaii, protests the award of a contract to Satellite Services, Inc. (SSI), of Charlotte, North Carolina, under request for proposals (RFP) No. GS-06P-11-GXD-0045, issued by the General Services Administration, Public Building Services, for operations and mechanical maintenance services at Bannister Federal Building Complex in Kansas City, Missouri. The protester challenges the agency's evaluation of its proposal.

We deny the protest.

The RFP, issued as a set-aside for small business concerns, provided for the award of a contract with a 3-year base term, two 3-year options, and one 1-year option. The solicitation identified five technical evaluation criteria, three of which contained subfactors. Factor 1, experience, was rated go/no go; all other factors, or, where applicable, the underlying subfactors, were assigned point scores, which were then weighted. Based on the evaluation scheme used by the agency, the maximum point score an offeror could achieve was 725. In this regard, the chart below identifies, by factor and subfactor, total points possible, weights, and total weighted points possible:

Technical Evaluation Criteria	Total Points Possible	Weight	Total Weighted Points Possible
(1) Experience	Go/No Go		
(2) Technical Inspection			
(a) Quality Control Plan	5	25	125
(b) Preventive Maintenance Program	5	25	125
(c) Staffing – Project Manager	5	15	75
(d) Staffing – Personnel	5	15	75
(3) Experience			
(a) EMCS ¹ Experience	5	20	100
(b) CMMS ² Experience	5	15	75
(4) Past Performance	5	25	125
(5) Site Visit/Inspection	5	5	25

RFP at 312. Award was to be made on a best value basis with the combined weight of the technical evaluation factors being considered significantly more important than price.

Twelve offerors, including the protester and the awardee, submitted proposals. For technical, the awardee and the protester both received an adjectival rating of excellent, and were ranked second and fifth overall, with 625 and 610 points, respectively. Source Selection Scoring Report at 1. SSI offered the lowest evaluated price of \$15,543,932.52, while Dellew-Olympus offered the second lowest evaluated price of \$16,267,492.89, a difference of \$723,560.37. Id. at 2. In its tradeoff decision, the agency determined that the benefit offered to the agency by the most highly technically rated proposal was not worth the price premium over the awardee's proposal. SSI's proposal, with the second highest technical rating, and lowest overall price, was determined to represent the best value to the government and selected for award. This protest followed.

DISCUSSION

The protester challenges the agency's evaluation of its proposal in two respects--arguing that it should have received the highest possible point scores under subfactor 2(d), staffing-personnel, and subfactor 3(b), CMMS experience.³ The

¹ Energy management and control systems (EMCS).

² Computerized maintenance management systems (CMMS).

³ The protester raised additional protest grounds with its comments on the agency report that were dismissed as untimely. Specifically, the agency produced all documents relevant to the protest on January 5, 2012, in advance of the agency report, filed on January 9. On January 19, the protester filed its comments, as well as new bases of protest. These new bases of protest, however, were apparent

(continued...)

evaluation of offerors' proposals is a matter largely within the agency's discretion. Frontline Healthcare Workers Safety Found., Ltd., B-402380, Mar. 22, 2010, 2010 CPD ¶ 91 at 5. In reviewing a protest that challenges an agency's evaluation of proposals, our Office will not reevaluate the proposals; rather, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. A protester's disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluators' judgments. Mike Kesler Enters., B-401633, Oct. 23, 2009, 2009 CPD ¶ 205 at 2-3.

The record reflects that under subfactor 2(d), staffing-personnel, the agency awarded the protester 4 out of 5 possible points for a total weighted point score of 60 out of 75 possible points. In this regard, the record reflects that the protester did not receive a higher rating because it did not establish how it would provide staffing to cover sick leave and vacation. The protester acknowledges that its proposal did not "explicitly disclose[]" how it would address staffing for sick leave and vacation leave, but argues that the RFP did not require it do so. Protest at 5. In support of its argument, the protester cites a portion of the RFP, which generally states that

[t]he [staffing] standard is met when the Contractors' proposed number, type, and job duties of employees and subcontractors meet all the Government's requirements and the Contractor supplies a personnel roster identifying the types of personnel, their job duties, and their schedule for coverage of the facility as required by the contract.

Protest at 5, citing RFP at 314.

The above language, however, supports the agency's evaluation where it established that the agency would evaluate whether a proposal's staffing met the solicitation's requirements. In this regard, the RFP provided that the contractor is required to provide sufficient staffing to perform the contract requirements Monday through Friday, 6:00 AM to 6:00 PM. This overarching staffing requirement

(...continued)
from information contained in the documents production by the agency on January 5. Because the protester failed to raise these new protest allegations within 10 days of the date it received these documents, the new allegations were dismissed as untimely. Bid Protest Regulations, 4 C.F.R. § 21.2(a); see CGI Fed. Inc., B-403570 et al., Nov. 5, 2010, 2011 CPD ¶ 32 at 13 n.7 (noting that, when supplemental protest allegations arise from documents produced in advance of an agency report, to be timely, those allegations must be filed with the GAO within 10 days of the documents' production); FR Countermeasures, Inc., B-295375, Feb. 10, 2005, 2005 CPD ¶ 52 at 9-10 (same).

encompasses the requirement to provide a level of staffing, which, as indicated by the RFP, accounts for various contingencies, such as employee sick or vacation leave. Specifically, under “Types of Work to be Performed,” the RFP indicated that the contractor would be evaluated on its “[a]bility to manage and overall professionalism; Flexibility and responsiveness to unexpected non-routine or emergency situations; providing sufficient staff including backup staff for sickness, vacations, offsite training, resignations, and terminations.” RFP at 181. Moreover, the Monthly Performance Assessment form, which was included in the RFP, contained ten contractor evaluation criteria, to include “[p]rovid[es] sufficient staff including backup staff for sickness, vacations, offsite training, resignations, and terminations.” *Id.* at 46. We see no basis to conclude that the agency evaluation was inconsistent with the terms of the solicitation by awarding less than the maximum possible points to a proposal that did not articulate how its staffing approach would accommodate sick and vacation leave.

Under subfactor 3(b), CMMS experience, the agency also awarded the protester 4 out of 5 possible points for total weighted score of 60 out of 75 possible points. The protester argues that it was improperly downgraded for failing to supply copies of CMMS training certificates, despite having demonstrated usage of a CMMS for a period of at least 2 years in the past 5 years. Protest at 7. According to the protester, the RFP did not require offerors to provide such training certificates, and it should have received the highest possible score under this subfactor.

The RFP established a minimum CMMS experience standard for subfactor 3(b), but also expressed specific preferences in excess of the minimum standard. Specifically, regarding CMMS experience, the RFP established that “[t]his standard is met when the Offeror demonstrates verifiable usage of a CMMS for a period of at least two years in the past 5 years. Longer periods are preferred. Validated training is preferred.” RFP at 315. Given the clear preference for CMMS experience in excess of the 2-year minimum and for “validated training,” the agency acted in a manner consistent with the terms of the RFP by essentially reserving the highest score for those proposals that met both preferences. Where a solicitation states a minimum requirement and expresses specific preferences that exceed that requirement, an agency’s evaluation may reasonably discriminate between proposals based on the degree to which they meet or exceed those minimum requirements and preferences. *See DUAL, Inc.*, B-252593.3, Aug. 31, 1993, 93-2 CPD ¶ 190 at 6. The protester’s proposal, which met the minimum CMMS experience requirement but did not provide the preferred “validated training,” was awarded most of the points available under the subfactor. We again see no basis to challenge the reasonableness of the agency’s evaluation.

The protest is denied.

Lynn H. Gibson
General Counsel