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Decision

Matter of: USmax Corporation
File: B-407273.20; B-407273.44
Date: February 6, 2014

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DIGEST

Protest of agency's price realism analysis and best-value tradeoff determination is denied where protester fails to show that either was unreasonable and the record fully supports the agency's evaluation conclusions and award decision.

DECISION

USmax Corporation, of Gambrills, Maryland, protests the award of multiple contracts to Citizant, Inc., of Chantilly, Virginia, and Applied Computing Technologies (ACT), Inc. of Alexandria, Virginia, under the functional category 1 small business track of solicitation No. HSHQDC-11-R-10001, issued by the Department of Homeland Security (DHS) for information technology (IT) services. USmax challenges the agency's price realism analysis of these awardees and the agency's source selection decision.

We deny the protest.

BACKGROUND

The request for proposals (RFP), issued on November 1, 2010, is for the second generation of DHS's enterprise acquisition gateway for leading edge solutions II (EAGLE II) program. The RFP anticipated the award of multiple indefinite-delivery/indefinite-quantity contracts, under which DHS would place fixed-price, cost-reimbursement, time-and-materials, or labor-hour task orders.¹ RFP at 2, 91.

¹ The RFP was amended 17 times during this procurement.

The RFP provided that contracts would be awarded for a 5-year base period and a single 2-year option period. Id. at 2. The RFP identified an unrestricted and a small business set-aside track. Id. at 105. Within each track, offerors competed for awards in one of three functional categories (FC): service delivery (FC1); information technology (IT) program support services (FC2); and independent test, validation, verification and evaluation (FC3). Id. at 10, 106. The RFP provided that DHS would make a “manageable number of awards” within each track and functional category. Id. at 106.

This protest concerns the agency’s evaluation of proposals under the FC1 “All Small Businesses” track.² Id. According to the solicitation’s statement of work, FC1 contractors were to provide a “full range of services and products in support of developing, implementing, and maintaining technology to support the DHS mission and business functions across the entire lifecycle of a program.” Id. at 11. The RFP identified the following services under FC1: system design, development, implementation, and integration; software design and development; and operations and maintenance. Id.

The RFP advised offerors that awards would be made on a best-value basis considering price and the following non-price factors, listed in descending order of importance: corporate experience, past performance, program management, and staffing. Id. at 106-107. The non-price factors, when combined, were “significantly more important than price.” Id. at 107. Pursuant to the RFP, awards would be made to the offerors whose proposals were deemed most advantageous to the government. Id. at 105.

With regard to price, the RFP instructed offerors to submit a pricing template in which the offeror was to detail its fully-burdened ceiling labor rates for each of the RFP’s identified labor categories, as well as rates for materials, subcontracts, travel, and other direct costs for all contract periods.³ Id. at 101-102. The RFP advised that DHS would evaluate price proposals for accuracy, completeness, and

² The FC1 small business track was divided into four categories for award: 8(a), Historically Underutilized Business Zone (HUBZone), service-disabled veteran-owned small business (SDVOSB), and all small business. RFP at 106.

³ The RFP identified 36 different labor categories. RFP, amend. 3, attach. L-3, Labor Categories and Qualifications, at 2-7. Within each labor category, offerors proposed rates for three different levels of experience and two different levels of security clearances (*i.e.*, top secret and “secret or below”). Id. at 1; see also RFP, amend. 3, attach. L-1, Pricing Template, at 1-10. Additionally, the RFP required firms to propose one set of rates for performance at the government’s site and another set of rates for performance at the contractor’s site. RFP, amend. 3, attach. L-1, Pricing Template, at 1-10.

reasonableness and that DHS would review proposed rates and prices “to determine if they are realistic. . . .” RFP, amend. 5, at 111. In this respect, the RFP stated, “Unrealistically low prices may indicate an inability to understand requirements and a high-risk approach to contract performance,” and that “the Government may consider the findings of such an analysis in evaluating an Offeror’s ability to perform and the risk of its approach.” RFP at 103.

Prior to the RFP’s February 23, 2011 closing date for the FC1 all small business track, DHS received proposals from 151 offerors, including proposals from USmax, Citizant, and ACT. Agency Report (AR), Tab 22, Source Selection Evaluation Board (SSEB) Report, at 9. A technical evaluation panel (TEP) evaluated the technical proposals and assigned adjectival ratings under each of the factors. A business management and price evaluation panel (BMPEP) evaluated the price proposals. AR, Tab 5(A), Source Selection Evaluation Plan, at 19. As part of its evaluation, the BMPEP compared the offerors’ total evaluated prices with the independent government cost estimate (IGCE) and the mean of the proposed prices of the competing offerors. AR, Tab 22, SSEB Report, attach. C, BMPEP Report, at 12. Citizant’s, ACT’s, and USmax’s proposals were rated as follows:

Technical Factors	Citizant	ACT	USmax
Corporate Experience	Superior	Good	Good
Past Performance	Satisfactory	Excellent	Satisfactory
Program Management	Good	Good	Good
Staffing	Superior	Superior	Superior
Total Evaluated Price	\$360,092,996.93	\$369,402,501.03	\$410,567,565.01
Percent difference from IGCE [deleted]	[deleted]%	[deleted]%	[deleted]%
Percent difference from mean of all offerors	[deleted]%	[deleted]%	[deleted]%

See AR, Tab 22, SSEB Report, at 10.

As relevant to this protest, the BMPEP identified 17 offers, including Citizant’s and ACT’s, with total evaluated prices that were “significantly below” the IGCE and the mean price of all offers, and the evaluators performed an extensive price realism analysis of these proposals. AR, Tab 22, SSEB Report, attach. C, BMPEP Report, at 12. With regard to Citizant’s and ACT’s proposals specifically, the record shows that the BMPEP analyzed the firms’ proposed labor hours and rates for each of the levels under the numerous labor categories for the first year of performance. AR, Tab 22, Price Realism Analysis for Citizant, at 2-9; AR, Tab 22, Price Realism Analysis for ACT, at 2-9. The BMPEP identified the lowest and highest rates proposed and analyzed the differences in rates between experience levels within a particular labor category. Additionally, to determine whether the firms were already performing at the same or similar labor rates proposed, the BMPEP compared the firms’ proposed rates for the EAGLE II labor categories with the firms’ General Services Administration (GSA) Federal Supply Schedule rates for the same or

similar categories.⁴ AR, Tab 22, Price Realism Analysis for Citizant, at 11; AR, Tab 22, Price Realism Analysis for ACT, at 11. Finally, the BMPEP reviewed the TEP's non-price evaluation findings, particularly with respect to the staffing factor. The BMPEP explained that the staffing factor was the "most pertinent element" of the technical proposal because it had the "most impact on the offeror's price/labor rates." AR, Tab 22, Price Realism Analysis for Citizant, at 13. Based on the "collective realism analysis," the BMPEP determined that the rates for both Citizant and ACT were realistic and that "performance risk ha[d] been reduced based upon the supporting evidence within [their] technical approaches." Id.; AR, Tab 22, Price Realism Analysis for ACT, at 13.

The TEP and BMPEP presented their consensus findings in reports to the source selection evaluation board. The SSEB reviewed the technical and price findings and conducted a "comparative analysis of the proposals considered among the most highly rated." Id. at 4. In its report, the SSEB first sorted the offerors by their technical ratings.⁵ Id. at 10. Based on this methodology, USmax's proposal was ranked 29th; Citizant and ACT's proposals were ranked 5th and 10th, respectively. Id. Thereafter, the SSEB conducted a tradeoff analysis to determine whether the agency should award contracts to other than the highest technically-rated offerors or the lowest-priced offerors. Id. at 14. The SSEB determined that 14 proposals represented the best value to the agency, including Citizant's and ACT's, and it recommended that these 14 firms receive awards. Id. at 111, 115.

The source selection authority (SSA) reviewed the SSEB's report and ultimately concurred with its assessments and award recommendations. AR, Tab 22, Source Selection Decision Memorandum, at 1. The SSA agreed that the proposals recommended for awards were the "most highly rated and qualified Offerors to support the EAGLE II program" and award was made to these offerors on September 6, 2013.⁶ Id. at 20; Contracting Officer's Statement at 2. After learning

⁴ The BMPEP compared EAGLE II proposed rates with firms' standard GSA schedule rates as well as discounted GSA schedule rates because, as the BMPEP explained, "it is common practice for vendors to discount [GSA] rates." AR, Tab 22, Price Realism Analysis for Citizant, at 10.

⁵ Offers rated highest in the most important factor under the RFP--corporate experience--were ranked ahead of those with lower corporate experience ratings; offers with the same corporate experience rating were then ranked by past performance rating; offers with the same past performance rating were then ranked by the ratings in the remaining factors. AR, Tab 22, SSEB Report, at 10-13.

⁶ While 14 firms were selected for awards, two awards were withheld pending the resolution of challenges to the small business status of the awardees. AR, Tab 25, Notification of Award to Unsuccessful Offeror, at 1.

of the agency's award decisions and receiving a debriefing, USmax filed this protest.

DISCUSSION

USmax protests the agency's price realism evaluation.⁷ Specifically, USmax alleges that DHS conducted a flawed realism evaluation of Citizant's and ACT's proposed prices.⁸ Comments/Supplemental (Supp.) Protest at 2. Additionally, the protester objects to DHS's price/technical tradeoff. Id. at 9.

Where, as here, an RFP contemplates the award of a fixed-price contract, or a fixed-price portion of a contract, an agency may provide in the solicitation for the use of a price realism analysis for the limited purpose of measuring an offeror's understanding of the requirements or to assess the risk inherent in an offeror's proposal. Federal Acquisition Regulation § 15.404-1(d)(3); Ball Aerospace & Techs. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. Our review of a price realism analysis is limited to determining whether it was reasonable and consistent with the terms of the solicitation. Smiths Detection, Inc.; Am. Sci. & Eng'g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 17. The nature and extent of an agency's price realism analysis are matters within the agency's discretion. Star Mountain, Inc., B-285883, Oct. 25, 2000, 2000 CPD ¶ 189 at 6.

The price realism evaluation here was unobjectionable. As explained above, the contemporaneous record shows that the agency performed a comprehensive and thorough analysis of the proposals it deemed "significantly below" the IGCE and the mean of the proposed prices of all the offerors. AR, Tab 22, BMPEP Report, at 12. The BMPEP reviewed these offerors' proposed labor hours and rates, documented the escalation in rates throughout the performance period, compared proposed rates with those on the offerors' GSA schedules,⁹ reviewed any narrative summary explaining aspects of the price proposal, and considered the results of the technical evaluation. See, e.g., AR, Tab 22, Price Realism Analysis for Citizant, at 1-13.

⁷ In its initial protest, USmax challenged the agency's evaluation of its past performance. See Protest at 5. In a supplemental filing, the protester withdrew its objection to the past performance evaluation. Comments/Supplemental Protest at 9 n.29. Accordingly, this decision does not address those allegations.

⁸ Citizant and ACT offered the lowest prices of the firms selected for award. AR, Tab 27, Debriefing Letter to USmax, at 6-7.

⁹ In comparing the proposed rates with those on the offeror's GSA schedule, the BMPEP considered both the rates proposed by the prime offeror and the offeror's core team members. See, e.g., AR, Tab 22, Price Realism Analysis for Citizant, at 11.

In assessing the realism of Citizant's proposed prices, the BMPEP first reviewed Citizant's proposed rates for the first year of performance and identified that Citizant had proposed low rates for level I personnel.¹⁰ AR, Tab 22, Price Realism Analysis for Citizant, at 9. Because experience levels I and III require "progressively greater knowledge, critical thinking capabilities and relevant experience," the BMPEP concluded that Citizant's "differences in rates between levels within a Labor Category [were] appropriate." Id. The BMPEP did note, however, that "some risk may exist in the Offeror's ability to staff positions with qualified personnel at some of the rates proposed" because Citizant and its four team members operate in the suburbs of Washington, D.C. and these locations "command price premiums for salaries and total compensation." Id.

Next, as discussed above, the BMPEP compared the rates proposed by Citizant and its team members with both discounted and standard rates published on the firms' GSA schedules. The BMPEP found that the rates "vary substantially on an individual basis," with some EAGLE II proposed rates as much as [deleted] percent higher than the schedule rates and others [deleted] percent lower. Id. at 12. "An average of all discrepancies" showed that Citizant's rates for the first year of performance were [deleted] percent lower than the schedule rates and [deleted] percent lower than the schedule rates in the last year of performance. Id. Consequently, the BMPEP concluded that "overall, mapped rates proposed under EAGLE II across the entire period of performance" were "close to" the published GSA schedule rates. Id.

Additionally, in its report, the BMPEP highlighted a narrative explanation that Citizant had provided with its proposal to support its rates. In the summary, Citizant explained how it developed its fully-burdened labor rates, including using salary survey data, recent recruiting insights, a lower indirect rate, and an [deleted] percent profit. Id. The BMPEP found the explanation to be "valuable in assessing the realism of the rates proposed." Id.

Finally, the BMPEP reviewed the results of Citizant's technical evaluation. The BMPEP noted that Citizant's proposal "demonstrated that it has a clear understanding of the [EAGLE II] requirements," and that the firm has a "solid track record of quality performance." Id. at 13. The BMPEP recognized that Citizant addressed several program management approaches that "confirmed its competency to oversee multiple, related projects and resources for the full task order life cycle." Id. Under the staffing factor, the BMPEP pointed out that Citizant provided key personnel with "expert level qualifications," and the evaluators

¹⁰ According to the RFP, level I personnel have between 1 and 4 years of experience and/or a high school diploma or general educational development (GED) certification. RFP, amend. 3, attach. L-3, Labor Categories and Qualifications, at 1.

identified Citizant's "exceptional approaches to recruiting and training qualified personnel." Id. The BMPEP also highlighted the qualifications and experience of the proposed program manager and teaming coordinator in particular. Id. Finally, the BMPEP detailed the firm's approaches to personnel recruitment, which include using a [deleted] and access to [deleted]. Id.

Based on its "collective realism analysis," the BMPEP concluded that Citizant's proposed labor rates and total evaluated price were realistic. Id. The BMPEP found that "performance risk [had] been reduced based upon the supporting evidence within its technical approaches" and that Citizant's proposal demonstrated the "capability to perform to the requirements at the rates proposed." Id.

With regard to ACT's proposal, the BMPEP reached many of the same conclusions in its price realism analysis. For example, the BMPEP found that ACT proposed "relatively low rates" for level I personnel and that the differences in rates between levels I to III were "appropriate." AR, Tab 22, Price Realism Analysis for ACT, at 9. The BMPEP also found that ACT's (and its team members') proposed rates for EAGLE II were "on average" [deleted] percent lower than the firms' GSA schedule rates in year 1 and [deleted] percent lower in year 7. Id. at 12. Similar to its findings regarding Citizant's rates, the BMPEP concluded that ACT's proposed rates were "close to" the published GSA schedule rates. Id. After reviewing the results of ACT's technical evaluation, the BMPEP noted that the firm's proposal constituted a "low risk" to DHS and that, based on the firm's past performance, "no doubt exists that it will successfully perform the required effort." Id. The BMPEP also highlighted that the firm proposed "impressive approaches to recruiting and retaining qualified personnel. . . ." Id. Based on its comprehensive assessment, the BMPEP concluded that ACT proposed realistic labor rates and a realistic total evaluated price. Id. at 13.

Based on the record here, as discussed above, we find that DHS reasonably found Citizant's and ACT's labor rates and total evaluated prices to be realistic. We address several of the specific arguments raised by the protester below.

The protester complains about the agency's conclusions regarding the comparison of the firms' EAGLE II proposed rates with the firms' GSA schedule rates. See Comments/Supp. Protest at 4, 7. For example, USmax argues that the realism analysis was unreasonable because [deleted] of the 48 labor categories Citizant proposed are more than [deleted] percent lower than the firm's discounted GSA schedule rates.¹¹ Id. at 7. According to USmax, the differences between the two

¹¹ The protester also objects to the agency's methodology of comparing proposed EAGLE II rates to discounted GSA schedule rates, and the agency's decision not to consider every EAGLE II labor category in its comparison. Supp. Comments at 3, 4. However, as our Office has repeatedly held, the depth of an agency's price
(continued...)

awardees' proposed rates and their GSA schedule rates create a "serious and compelling risk that the rates are insufficient to provide acceptable personnel." Id. at 9. As discussed above, DHS reasonably concluded that "overall" the rates proposed were "close to" the GSA schedule rates and "within the range of rates proposed." See AR, Tab 22, Price Realism Analysis for Citizant, at 12; AR, Tab 22, Price Realism Analysis for ACT, at 12. That an offeror proposes rates lower than those published on the firm's GSA schedule does not compel the conclusion that the proposed rates are *per se* unrealistic. See Apptis Inc., B-403249, B-403249.3, Sept. 30, 2010, 2010 CPD ¶ 237 at 10 (concluding that agency's evaluation of awardee's proposed recruitment and training plans, and its Federal Supply Schedule labor rates demonstrated that the proposed compensation plan was realistic). In any event, the comparison of proposed rates to GSA schedule rates was but one aspect of the agency's extensive price realism analysis here.

The protester further contends that the agency did not consider the "substantial risk" that both Citizant and ACT will be "unable to recruit and retain qualified individuals." Comments/Supp. Protest at 4, 7. On the contrary, as explained above, the BMPEP reviewed each firm's plan to staff the contract, including the firms' methods for recruitment. The record shows that the agency acknowledged that "some risk may exist" in the firms' abilities to staff some positions, in part because the geographic location of the prime offerors and their team members "command price premiums for salaries." AR, Tab 22, Price Realism Analysis for Citizant, at 9; AR, Tab 22, Price Realism Analysis for ACT, at 9. However, the agency reasonably concluded that this risk did not signify that the proposed prices were either unrealistic or demonstrated a lack of understanding of the EAGLE II requirements. To the extent that the protester argues that the agency's judgments were unreasonable, the protester's disagreement provides no basis to sustain the protest.

In any event, the protester has not demonstrated that it was prejudiced by any alleged defects in the price realism analyses of Citizant's or ACT's proposal. See, e.g., Paragon TEC, Inc., B-405384, Oct. 25, 2011, 2011 CPD ¶ 240 at 9 (competitive prejudice is an essential element of a viable protest). In this regard, the protester has not shown that flawed realism analyses were what prevented the firm from being awarded a contract, or that DHS would have awarded the firm a contract had Citizant's or ACT's proposed prices been found to be unrealistic. First, the RFP here did not require the agency to award a specific number of contracts; the RFP only contemplated a "manageable number of awards" within each track and functional category. See RFP at 106. We do not see anything in the record,

(...continued)

realism is a matter within the sound exercise of the agency's discretion. Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 4-5. The protester has not shown that the agency's methods for assessing price realism were unreasonable.

and the protester has not pointed to anything, to suggest that DHS would have been required to award the protester a contract if the agency's evaluation of any of the awardees' proposals was found to be flawed.

Second, to the extent that DHS would have awarded additional contracts in the event that Citizant's or ACT's prices were deemed unrealistic, USmax has not demonstrated that it offered the best value to the agency such that it should have been awarded a contract. In this respect, USmax's technical proposal was rated as the 29th highest-ranked proposal; each of the 14 proposals selected for award was ranked higher. See AR, Tab 22, SSEB Report, at 111. Although USmax proposed a lower price than the higher-ranked proposals that were not selected for award, USmax has not argued that its lower-priced, lower-rated proposal was a better value to the agency. This is especially relevant here where the non-price factors were significantly more important than price. See RFP at 107. Accordingly, we find no basis to sustain USmax's challenges to DHS's price realism analyses.

Finally, USmax objects to the agency's cost/technical tradeoff. Specifically, USmax contends that DHS did not provide "sufficient explanation/detail" to justify the awards to two higher-priced offerors. Comments/Supp. Protest at 10.

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results; cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the evaluation criteria. World Airways, Inc., B-402674, June 25, 2010, 2010 CPD ¶ 284 at 12. Where a cost/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs. Federal Acquisition Regulation (FAR) § 15.308; The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 13. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision, nor is there a requirement to quantify the specific cost or price value difference when selecting a higher-priced higher-rated proposal for award. FAR § 15.308; Advanced Fed. Servs. Corp., B-298662, Nov. 15, 2006, 2006 CPD ¶ 174 at 5.

Here, as explained above, the SSEB compared USmax's proposal with the higher-rated, higher-priced proposals from the initial group of the 14 highest-rated proposals. AR, Tab 22, SSEB Report, at 14, 91. In each case, the SSEB reasonably concluded that the higher price was justified "based on the higher value/technical merit presented in the non-price factors of the proposal." Id. at 92. The SSEB also compared USmax's proposal with the lowest-rated proposal in the initial group. The SSEB noted that this proposal and USmax's were both assigned the same good corporate experience rating and superior staffing rating, but USmax's proposal was assigned a lower rating under the past performance factor--

the second most important factor--and USmax proposed a 3.66 percent higher price. Id. Consequently, the SSEB determined that the lowest-rated proposal of the initial group of 14 also represented a better value to the agency than USmax's proposal. Id.

With respect to the two higher-priced proposals singled out by USmax, the SSEB compared the evaluation findings regarding these proposals with USmax's in detail, and the SSEB noted that both of the higher-priced proposals had beneficial features that justified paying slightly higher prices. Id. at 51, 61. For example, one of the proposals USmax complains about had more "innovative solutions" than USmax and "demonstrated the capability to be a prime" in five of its corporate experience examples. Id. at 51. Additionally, USmax's proposal was assigned lower ratings than the two proposals under the past performance factor, which, the SSEB concluded, "showed some doubt in [USmax's] ability to perform the required work in EAGLE II." Id. We find that the SSEB reasonably concluded that, "[b]ased on the order of importance of the non-price factors relative to price," the offeror's "technical superiority in [p]ast [p]erformance combined with equivalent ratings" in the other factors justified the "relatively small" 3.02 percent price differential. Id. at 51-52. The SSEB reasonably reached the same findings with regard to the other proposal singled out by USmax, concluding that the offeror's "more consistent record of exceptional performance" justified the 8.04 percent price differential. Id. at 61.

In our view, the SSEB's tradeoff analysis and the SSA's memorandum--in which the SSA agrees with the SSEB's assessments and recommendations--reflect a reasonable, well-documented source selection decision. We see no basis to question the agency's determination that the 14 highest-rated proposals represented a better value to the government than did USmax's proposal.

The protest is denied.

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