



Decision

Matter of: St. Joseph Center; Step Up on Second, Inc.; Ocean Park Community Center

File: B-407418; B-407418.2; B-407418.3

Date: December 28, 2012

Nick Maiorino for St. Joseph Center; Tod Lipka for Step Up on Second, Inc.; and John Maceri for Ocean Park Community Center, the protesters.
Joel John Roberts for People Assisting the Homeless, the intervenor.
Joan L. Liguoro, Esq., Department of Veterans Affairs, for the agency.
Linda C. Glass, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protests challenging an agency's evaluation and selection decision are denied where the record demonstrates that the evaluation and source selection decision were reasonable and consistent with the solicitation's evaluation criteria.

DECISION

St. Joseph Center, of Venice, California; Step Up on Second, Inc., of Santa Monica, California; and Ocean Park Community Center of Santa Monica, California, protest the award of a contract to People Assisting the Homeless (PATH) of Los Angeles, California, under request for proposals (RFP) No. VA262-12-R-0287, issued by the Department of Veterans Affairs (VA), for assistance services for homeless veterans through the Housing and Urban Development (HUD)-Veterans Affairs Supported Housing (VASH) program. The protesters challenge the agency's evaluation and selection decision.

We deny the protests.

BACKGROUND

The RFP provided for the award of a fixed-priced contract for housing placement and case management assistance services in VA's Veterans Integrated Services Network (VISN) 22 area for a base year and 4 option years.¹ Specifically, offerors were required to provide their monthly price to provide case management and housing services for the Greater Los Angeles (contract line items 1 and 2, 950 vouchers) and Long Beach (contract line items 3 and 4, 150 vouchers) healthcare systems. RFP amend. 3, at 2. The RFP stated that the government reserves the right to make multiple awards for individual government activities stated in the statement of work (SOW), or a single award for all areas, whichever is more advantageous to the government. RFP at 101. Offerors were allowed to propose on a single or on multiple designated activities as stated in the SOW. Id.

The solicited services were described in the SOW and include supporting the VA's placement of veterans and their families with HUD housing vouchers in affordable, permanent housing, and assisting the veterans and their families with maintaining the housing. RFP at 20. Offerors were informed that the case management services would be performed by social workers, case managers, and para-professional counselors, who would assist veterans with retaining housing through therapeutic services, life skills education, and routine counseling sessions. Id. The RFP also advised that a minimum of 65 percent of the veterans enrolled in the program must satisfy HUD's definition of "chronically homeless." RFP at 22. The RFP stated that this percentage may change every year and that the contractor was required to comply with any future changes in this requirement. Id.

Offerors were informed that award would be made on a best value basis, considering the following factors, listed in descending order of importance: technical capabilities; past performance; small disadvantaged business (SDB) participation and price. RFP at 96. The non-price factors combined were stated to be significantly more important than price. Id.

The RFP identified the following subfactors under the technical capabilities factor: technical approach; facility/accreditation/licensing/staff; and on-site inspection. RFP at 97-99. With respect to the technical approach subfactor, offerors were required to describe their ability and approach to satisfying the contract requirements. With respect to the past performance factor, offerors were instructed to provide at least three current or recently completed contracts that were similar in volume, complexity and dollar value to the current requirement. Id. at 100. Offerors were informed that the agency would evaluate information obtained from the

¹ VISN 22 is part of the VA's Health Administration nationwide system of hospitals and clinics and comprises the following VA healthcare systems: Greater Los Angeles, San Diego, Long Beach, Loma Linda, and Southern Nevada. RFP at 21.

offerors' identified references, other customers known to the government, consumer protection organizations, and others. Id.

With respect to the small disadvantage business participation factor, offerors were advised that the agency would evaluate the extent to which they proposed the participation of, and commitment to use, small business concerns. In this regard, the RFP provided for the evaluation of, among other things, the complexity and variety of work small businesses were proposed to perform and the offerors' past performance in complying with small business subcontracting plan goals. Id. Offerors were required to list all the small businesses they planned to use, the contract, and the product or tasks that the small business would provide. Id. The RFP also stated that the agency would evaluate offerors based on their service-disabled veteran-owned (SDVOSB) or veteran-owned small business (VOSB) status and their proposed use of eligible SDVOSB concerns and VOSB concerns. Offerors were advised that the agency would provide credit under this subfactor to offerors who provided a copy of a signed letter issued by the VA Office of Small and Disadvantaged Business Utilization approving the offeror's Mentor-Protege Agreement.² Id.

The agency received 15 proposals, eight of which, including the protesters' and the awardee's, were included in the competitive range. The VA conducted several rounds of discussions. Among other things, the protesters were advised that their proposals did not sufficiently address the small disadvantage business participation requirement. See AR, Tab H, Second Round of Discussions with Protesters. St. Joseph's and Step Up submitted revised small disadvantage business participation plans that the agency found met the requirement. AR, Tab V, Source Selection Decision, at 9,16. Ocean Park's plan was determined to be unacceptable. Id. at 14.

² Proposals were evaluated under the technical capabilities factor as blue/outstanding, green/excellent, yellow/acceptable, orange/marginal and red/unacceptable. Agency Report (AR), Tab R, Source Selection Plan, at 9-12. Proposals were evaluated under the past performance factor as exceptional, satisfactory, marginal, unsatisfactory, and neutral. Id. at 12. Proposals were evaluated under the SDB participation factor as exceeds, meets or does not meet. Id. at 12-13.

The parties' final revised proposals were evaluated as follows:

	Technical Capabilities	Past Performance	SDB Participation	Base Year Monthly Price (vouchers)
PATH	Green	Exceptional ³	Exceeds	\$438 month 1,100 Vouchers
St. Joseph's (Los Angeles)	Green	Neutral	Meets	\$516 month 30 Vouchers
St. Joseph's (Long Beach)	Green	Neutral	Meets	\$563 month 45 Vouchers
Ocean Park	Green	Neutral	Does Not Meet	\$565 month 32 Vouchers
Step Up	Green	Neutral	Meets	\$564 month 120 Vouchers

AR, Tab V, Source Selection Decision, at 20-33.

PATH was the only offeror that proposed to perform all of the contract line items (1,100 vouchers). The proposals of all offerors, including the protesters and awardee, were evaluated as green (excellent) under the technical capabilities factor.⁴ In this regard, the technical evaluation panel (TEP) noted as a strength in the protesters' proposals under the technical approach subfactor that all three protesters had Project 60 experience with servicing homeless veterans with mental illness.⁵ AR, Tab V, Source Selection Decision, at 23. St. Joseph's and OPCC received a neutral rating for past performance because none of their references responded to the questionnaires and the agency had insufficient information on their performance. Id. at 11 and 14. One reference response was received for Step Up, and although that reference rated Step Up's performance as satisfactory, the agency considered the single reference to be insufficient to evaluate Step Up's performance as other than neutral. Id. at 16.

³ The technical evaluation panel (TEP) rated PATH very good for past performance; however, the Source Selection Authority (SSA) rated PATH exceptional. AR, Tab V, Source Selection Decision at 1.

⁴ Although the RFP stated that the evaluation factors were listed in descending order of importance, the record shows that the agency considered all evaluation factors, except for price, to be of equal importance. Contracting Officer's Statement at 10.

⁵ Project 60 was launched in February 2011 by the VA Greater Los Angeles Healthcare System in collaboration with non-profit agencies. This was a demonstration project, in which the protesters participated, to assist 60 of the most vulnerable, chronically homeless veterans in the Venice, Santa Monica, Hollywood and Van Nuys areas. See file.lacounty.gov/dmh/cms1_162871.pdf.

The Source Selection Authority (SSA) concluded that PATH's higher-rated proposal (exceptional under the past performance factor and exceeds under the SDB participation factor) reflected the best value to the agency. Id. In this regard, the SSA recognized that PATH, which submitted a lower monthly price than the protesters, was the only offeror to propose to perform all line items. Id. Award was made to PATH, and these protests followed. None of the protesters requested a debriefing.⁶

DISCUSSION

The three protesters make essentially the same arguments, complaining that the VA made a single award, that PATH was selected on the basis of its lower price, and that that the agency failed to award part of the requirement to a Project 60 partner. We have considered all of the protesters' argument, and find that none have merit.

Single Award

The protesters object to the VA's decision to make a single award and maintain that the RFP did not established a preference for a single contractor to perform the entire scope of work.⁷ St. Joseph's also argues that by making multiple awards the VA would have greater capacity to issue vouchers in an expedited manner. St. Joseph's Comments at 3.

The protesters are correct the RFP did not express a preference for a single award. As explained above, the RFP specifically stated that the government reserved the right to make multiple awards for individual designated government activities or a single award for all areas. Our Office has held that an agency's determination that the government's advantage lies in single, not multiple awards, is a matter for

⁶ St. Joseph's complains that it was not advised by the contracting officer that a debriefing could be requested. The requirement to provide an offeror a debriefing in a negotiated procurement is established by law and regulation, and therefore the protester was on constructive notice of its right to a debriefing. See 31 U.S.C. § 3553(d)(3),(4) (2006); Federal Acquisition Regulation § 15.506.

⁷ In this regard the protesters contend that making a single award under the RFP was inconsistent with the President's "Executive Order – Improving Access to Mental Health Services for Veterans, Service Members, and Military Families." Section 3 "Enhanced Partnerships Between the Department of Veterans Affairs and Community Providers." Exec. Order No. 13625, 77 Fed. Reg. 54,783 (2012). We need not discuss whether the executive order at issue here provides rights to protesters, as we see nothing in the executive order requiring the agency to make multiple awards to community based providers.

administration discretion, which we will not question as long as the decision is reasonably based. IVAC Corp., B-231174, July 20, 1988, 88-2 CPD ¶ 75 at 3. Here, the contracting officer concluded that a single award was in the best interest of the government, because of the more favorable terms and conditions provided by PATH and the lower cost in administering a single contract. Contracting Officer's Statement at 15. Although the protesters disagree with the contracting officer's judgment, they have not shown it to be unreasonable.

Best Value Decision

The protesters complain that the RFP provided that the technical capabilities factor was the more important evaluation factor, but that the VA selected PATH's proposal based upon its lower price.

Source selection officials have broad discretion to determine the manner and extent to which they will make use of evaluation results, which are merely guides for the source selection official, who must use his own judgment to determine what the underlying differences between proposals might mean to successful performance of the contract. Information Network Sys., Inc., B-284854, B-284854.2, June 12, 2000, 2000 CPD ¶ 104 at 12. In this regard, source selection officials are not bound by the recommendations of lower-level evaluators. All Points Int'l Distributions, Inc., B-402993, B-402993.2, Sept. 3, 2010, 2010 CPD ¶ 209 at 3.

As an initial matter, and as mentioned earlier, the protesters are correct in their assertion that the technical capabilities factor was the most important factor. Specifically, the RFP stated that the three evaluation factors were listed in descending order of importance, and the technical capabilities factor was listed first. RFP at 96. Nonetheless, the record shows that the agency considered all evaluation factors, except for price, to be of equal importance. Contracting Officer's Statement at 10. However, we do not see any prejudice here since all offerors received the same rating for the technical capabilities evaluation factor. See McDonald – Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3.

In addition, the record shows, contrary to the protesters' arguments, that PATH's proposal was not selected for award solely on the basis of its lower price. Rather, the SSA reviewed the offerors' competing technical merits in addition to considering their proposed prices. With respect to the protesters' and awardee's proposals, the SSA found that the firms' proposals were substantially equal under the technical capabilities factor, but that PATH's proposal was technically superior under the past performance and SDB participation factors. She also recognized that PATH, which submitted a lower monthly price than the protesters, was the only offeror who proposed to provide all items. The SSA concluded that PATH's proposal was the best value to the agency. Although the protesters disagree with the SSA's judgment, the protesters have not shown it to be unreasonable.

Project 60 Participation

The protesters also complain that an award was not made to a Project 60 participant, such as the protesters. The RFP, however, did not have a requirement for Project 60 experience. In any event, the record shows that the agency credited the protesters for their Project 60 experience in evaluating their proposals under the technical capabilities factor.⁸

The protests are denied.

Susan A. Poling
General Counsel

⁸ In their comments, the protesters generally complain about the VA's conduct of the procurement, stating that the VA failed to respond to questions and failed to make the SDB participation factor clear. Both of these arguments are untimely as they could have been raised prior to the closing time for receipt of proposals. See 4 C.F.R. § 21.2(a)(1) (2012).