



United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Information Ventures, Inc.

File: B-407478.4

Date: July 17, 2013

Bruce H. Kleinstein, Esq., for the protester.

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DIGEST

1. Protest challenging an agency's evaluation of quotations is denied where the source selection official did not rely upon point scores but considered the quotations' underlying technical merits in reaching a source selection decision. Protester mistakenly assumed that a quotation with no identified weaknesses for a particular factor automatically warranted a perfect point score for that factor.

2. Protester was not competitively prejudiced where the source selection official expressly acknowledged the superiority of protester's proposal for the past performance factor, even though the agency committed an error by misplacing a highly favorable questionnaire that might have resulted in a higher point score for protester under that factor.

DECISION

Information Ventures, Inc., of Philadelphia, Pennsylvania, protests the award of a contract to AlphaTRAC Inc., of Westminster, Colorado, under request for quotations (RFQ) No. NIHLM2012396, issued by the Department of Health and Human Services (HHS), National Institutes for Health, National Library of Medicine, for services supporting the agency's chemical hazards emergency medical management (CHEMM) website. The protester challenges the evaluation of its quotation.

We deny the protest.

BACKGROUND

The RFQ, issued as a combined synopsis/solicitation set aside for small businesses under the streamlined commercial acquisition procedures of Federal Acquisition Regulation (FAR) Subpart 12.6, provided for award of a fixed-price labor-hour contract for services supporting the agency's CHEMM website for a base year and two option years. RFQ at 2. The CHEMM website is intended to provide a comprehensive, user-friendly, web-based resource that allows first responders, first receivers, and other health care providers and planners to plan for, recover from, and mitigate the effects of mass-casualty incidents involving exposure to chemicals. RFQ, Statement of Work, at 9. Among other things, the successful vendor would create new content for the CHEMM website; enhance, update and revise existing content; and support content-building activities such as facilitating peer consultations and review meetings. Id. at 9-10.

Vendors were informed that award would be made on a best-value basis, considering price and the following evaluation factors, listed with each factor's maximum available point score, under a 100-point scale: understanding of the requirements and technical approach (40 points), personnel (35 points), past performance (15 points), and proposed facilities and equipment (10 points). Id. at 4-5. As relevant here, under the first factor, quotations were to demonstrate in a detailed manner the vendor's approach and ability to perform all tasks and deliverables in the statement of work. Under the personnel factor, vendors were to demonstrate that the proposed staff was competent and experienced in the skills required in the statement of work, and provide resumes reflecting academic qualifications as well as demonstrating relevant training, experience, and expertise. For the past performance factor, vendors were to show prior experience with similar activities, demonstrating a commitment to customer satisfaction and timely, quality delivery; and for the facilities and equipment factor, quotations were to include detailed information describing the facilities and resources with which the vendor would perform the work. RFQ at 5.

The RFQ provided that the technical factors were the "paramount consideration" for award, although price was also important. Id. at 4. With regard to price, the RFQ stated that all quotations might be subjected to a price analysis, as determined appropriate. Id. at 5. The RFQ established a 10-page limit for quotations, and specified certain pages that would not be counted against the limit, such as the cover letter, table of contents, resumes and past performance information. Id.

HHS received quotations from four firms, including Information Ventures and AlphaTRAC. Award was initially made to another firm, and Information Ventures protested to our Office. Prior to submitting its agency report, HHS indicated that the agency would take corrective action by re-evaluating quotations and making a new selection decision. We dismissed the protest as academic. Information Ventures, Inc., B-407478, Oct. 25, 2012. HHS re-evaluated the quotations and again selected

the other firm for award. Information Ventures again protested to our Office, and the agency again proposed the corrective action of re-evaluating quotations and making another source selection decision. We dismissed the protest as academic. Information Ventures, Inc., B-407478.2, Jan. 10, 2013. This protest concerns the results of the second re-evaluation.

During this re-evaluation, the agency found, as a preliminary matter, that all four quotations exceeded the page limit, and excluded from its evaluation of each quotation any information that appeared outside the defined 10-page limit. Only AlphaTRAC's and Information Ventures' quotations were found to contain enough information within the page limit to demonstrate that they were technically acceptable. Agency Report (AR), Tab 14, Technical Re-Evaluation Report, at 8, 17. Information Ventures' and AlphaTRAC's quotations were assigned the following scores:

| | Information Ventures | AlphaTRAC |
|------------------------|----------------------|-----------|
| Technical Approach | 31 | 30 |
| Personnel | 25 | 27 |
| Past Performance | 12 | 10 |
| Facilities & Equipment | 7 | 7 |
| Total | 75 | 74 |

Id. at 3-6; 12-15. AlphaTRAC submitted the lowest total price of \$112,447, while the protester's price was \$122,116. AR, Tab 15, Source Selection Decision (SSD), at 4.

The TEB's evaluation report included narrative comments to explain the basis for its point scores. For example, with respect to the technical approach factor, the TEB stated that Information Ventures' quotation showed an adequate, but not strong, understanding of the information to be compiled and delivered, and that it showed limited hazard expertise and limited understanding of chemical emergency medical management. The TEB acknowledged that the protester's quotation showed an extensive organizational understanding of biology and the biomedical sciences, but conveyed a limited understanding of website information to be compiled in the areas of chemical emergency medical management and hazard response. AR, Tab 14, Technical Re-Evaluation Report, at 12-13.

Similarly, under the personnel factor, the evaluators found Information Ventures' proposed staff sufficiently competent, with strong academic backgrounds, but found their experience with chemical emergency medical management to be more limited. Id. at 14.

The contracting officer (CO) compared the advantages and disadvantages offered by Information Ventures' and AlphaTRAC's quotations under each evaluation factor, and prepared a detailed source selection decision. The CO found that the two quotations were "virtually equally advantageous to the Government for other-than-price factors." AR, Tab 15, SSD, at 4.

Underlying this conclusion that the quotations were essentially equal, the CO recognized several areas where each of these quotations offered more benefits than the other. For example, the CO noted that Information Ventures' technical approach was "slightly superior" to AlphaTRAC's, while AlphaTRAC's personnel were "better suited to performing the work" here. Id. In addition, the CO noted that both quotations were "virtually equal" with respect to facilities and equipment, while Information Ventures' quotation was "superior" under past performance because of Information Ventures' experience with [the National Library of Medicine] and other parts of NIH." Id. In balancing these differences, the CO noted that since the quotations were so close to equal under the other-than-price factors, there was no "significant justification" to pay Information Ventures' higher price. Id.

Of relevance here is the final paragraph of the tradeoff decision:

Given that the proposals of [Information Ventures] and AlphaTRAC are virtually equal for other-than-price factors, there is not sufficient justification to pay [Information Ventures'] price premium of an additional 8.6%. If [Information Ventures] was significantly superior for all other-than-price factors, it would warrant paying the price premium. However, that is not the case. In view of the foregoing, given that the proposals of [Information Ventures] and AlphaTRAC are virtually equal for other-than-price factors, and given that AlphaTRAC's price is lower than that of [Information Ventures] by \$9,669, AlphaTRAC's proposal furnishes the best value to the Government.

Id. at 4-5. This protest followed.

DISCUSSION

The protester challenges the agency's evaluation of its quotation and selection decision, arguing that its quotation should have received higher ratings and been selected for award. We have considered all of the protester's arguments, although we only discuss the primary ones, and find that none provide a basis to sustain the protest.¹

¹ For example, we do not fully address the protester's arguments concerning the facilities and equipment factor. The essence of these arguments is that it was unreasonable for the agency to give Information Ventures' quotation a less than

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Understanding the Requirements and Technical Approach

The protester contends that the agency improperly deducted nine points under the most important evaluation factor, understanding the requirements and technical approach, because the evaluators believed that the protester's quotation demonstrated a "limited understanding and experience with chemical emergency medical management."² Protest at 9. The protester argues that the RFQ did not require vendors to show this type of experience. Id.

In considering protests challenging an agency's evaluation of quotations, we will not re-evaluate quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. Gonzales-Stoller Remediation Servs., LLC, B-406183.2, et al., Mar. 2, 2012, 2012 CPD ¶ 134 at 5. A protester's disagreement with a procuring agency's judgment is insufficient to establish that the agency acted unreasonably. Sig Sauer, Inc., B-402339.3, July 23, 2010, 2010 CPD ¶ 184 at 6. Moreover, agencies may properly evaluate a proposal or quotation based on considerations not expressly stated in the solicitation where those considerations are reasonably and logically encompassed within the stated evaluation factor and where there is a clear nexus between the stated and unstated criteria. Exelis Sys. Corp., B-407111 et al., Nov. 13, 2012, 2012 CPD ¶ 340 at 18.

As a threshold matter, we find Information Ventures' challenge to each of the evaluation scores it received is based upon a faulty assumption--that its quotation was "downgraded" based on assessed weaknesses, and that, absent those

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perfect point score based on its providing only general information, without mention of such details as software type/versions, capacity for data transfer, or redundant systems; and that it was unreasonable to expect more details, given the page limits for quotations. Comments at 19. Given that the RFQ stated quotations would be evaluated under this factor for "provid[ing] detailed information describing the facilities and resources the organization has to carry out the tasks of the project," RFQ at 5, we find no basis to conclude the evaluation was inconsistent with the RFQ or that the evaluation was unreasonable.

² Information Ventures also contends that the agency did not consider certain information in an appendix to its quotation because it exceeded the RFQ's stated page limitation. Protest at 9. Our review of the record, however, indicates that the protester is mistaken. The evaluation specifically references information presented in this appendix, recognizing it as a positive aspect to the protester's quotation. AR, Tab 14, Technical Re-Evaluation Report, at 12. We find that the agency reasonably considered this information, and that the protester's contention lacks any basis.

deductions, its quotation would have been entitled to a perfect score. The RFQ, however, provided an evaluation scheme under which quotations would be given higher scores for demonstrating such things as, for example, an understanding of the requirements, clear awareness of the contract purpose and objectives, or providing a detailed explanation of how resources would be allocated. RFQ at 5.

The re-evaluation report quotes a significant portion of the protester's quotation, acknowledging that the quotation shows extensive organizational understanding of biology and biomedical sciences, generally, but noting that it conveys limited understanding of chemical emergency management and hazard response. AR, Tab 14, Technical Re-Evaluation Report, at 13. The agency asserts that, while the RFQ does not expressly call for chemical emergency medical management experience, the very purpose of the procurement clearly encompasses this. The requirement, as explained above, is for the contractor to create, enhance and provide support for content-building activities for the CHEMM website, which is designed to enable first responders, first receivers, other health care providers and planners to plan for, respond to, recover from, and mitigate the effects of mass casualty incidents involving chemicals. Memorandum of Law at 4. Since the website's purpose is primarily to provide instructions and guidance for response personnel reacting to mass casualty incidents, the agency asserts that it was entirely reasonable to evaluate CHEMM experience--that is, experience specific to chemical hazards emergency medical management--as the kind most closely related to the performance of the work required here. Id.

We agree; we regard the agency's assignment of higher scores to quotations showing more familiarity with hazard response and greater understanding of chemical emergency management as consistent with the terms of the RFQ, since the RFQ's requirements encompass providing guidance for response personnel reacting to mass-casualty incidents.

Personnel

Information Ventures complains that its quotation was misevaluated under the personnel factor in a similar way. As stated above, although the agency recognized that the protester's proposed staff showed experience in diverse subject matter areas and offered strong academic backgrounds in biology, chemistry, environmental health, and software tools development, it found that they did not demonstrate experience with chemical emergency medical management, particularly management of situations involving potential mass casualty chemicals, and emergency response and protective action planning. AR, Tab 14, Technical Re-Evaluation Report, at 14. Information Ventures argues that the RFQ did not explicitly request that proposed staff demonstrate this experience, and that its quotation therefore should not have been downgraded on that basis. Protest at 9.

We do not find the agency's evaluation of this factor to be unreasonable or inconsistent with the terms of the RFQ. Given the purpose of the procurement, and the RFQ's emphasis on personnel with resumes that not only reflect academic qualifications, but also clearly demonstrate relevant training, experience, and expertise, we think experience in actual chemical emergency medical management is encompassed within the RFQ's requirements and is relevant.³

The protester's claims concerning both of these evaluation factors amount to no more than disagreement with the agency's judgment. General Dynamics Info. Tech., Inc., B-407057, Oct. 12, 2012, 2012 CPD ¶ 293 at 4. Such disagreement does not establish that the agency acted unreasonably. Sig Sauer, Inc., *supra*.

Past Performance

The protester also complains that its quotation should have received a higher rating under the past performance factor. In the evaluation report, Information Ventures' past performance was given 12 out of 15 possible points, and the narrative evaluation commented very favorably about several specific aspects of the protester's performance record. However, the evaluation report also mentions that the protester's cost control or forecasting was rated as only acceptable, rather than strong or excellent, in one of its past performance questionnaires.⁴ AR, Tab 14, Technical Re-Evaluation Report, at 15-16. The protester argues that its past performance was unreasonably downgraded on this basis. Protest at 11.

As an initial matter, and as stated above, there is no evidence in this record that the protester was downgraded in this evaluation for an acceptable rating under one of nine parameters addressed on a single past performance questionnaire. There is, however, evidence of an error in the agency's evaluation. Nonetheless, after reviewing the nature and magnitude of the error--as well as where it occurred in the evaluation—we conclude that Information Ventures was not prejudiced by the agency's actions. Our rationale is set forth below.

During the course of this protest, the agency acknowledged that it misplaced one of the protester's past performance questionnaires and therefore did not consider it in its evaluation. Memorandum of Law at 10. The misplaced questionnaire gave the

³ The protester also contends that the agency unreasonably and doubly penalized it by deducting points for lack of experience under both criteria. Protest at 12. We find no merit in this argument.

⁴ The past performance questionnaire that was used to assess a vendor's past performance included nine questions, one of which was, "How effective was the contractor in forecasting and controlling costs[?]" AR, Tab 17, Past Performance Questionnaires, at 1.

protester the highest rating for forecasting and controlling costs which, as set forth above, was the same area Information Ventures received an acceptable rating on one of the questionnaires the agency did consider. Id. The agency argues, however, that Information Ventures was not prejudiced by the agency's failure to consider this reference.

Our review of the record shows that the CO's selection decision properly did not rely upon the point scores assigned during this evaluation, but instead considered the underlying technical merits in the firms' respective quotations.⁵ As set forth above, the CO noted that Information Ventures' quotation was "slightly superior" to AlphaTRAC's quotation under the most important evaluation factor, technical approach, and was superior to AlphaTRAC's quotation under the third most important factor, past performance, given its specific experience at the National Library of Medicine and National Institutes of Health. Id. The CO found, on the other hand, that AlphaTRAC's quotation was superior under the personnel factor, where AlphaTRAC proposed personnel with more directly relevant work experience that were better suited to performing the CHEMM website work. Id.

Even assuming that the agency's error of misplacing a highly favorable questionnaire might have resulted in an even higher point score for the protester under the past performance factor, we note that the selection official expressly acknowledged the superiority of the protester's quotation under that factor. In addition, in the contemporaneously-prepared selection document, the CO also noted that if Information Ventures had been "significantly superior for all the other-than-price factors, it would warrant paying the price premium." AR, Tab 15, SSD, at 4.

Thus, the correction of this error--at best--would increase the superiority of the protester's quotation in an area where it was already deemed superior. In addition, any increased superiority in past performance would not change the results in any of the other non-price factors. On balance, we will not conclude Information Ventures was prejudiced here.

Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a

⁵ Point scores and adjectival ratings are merely guides for intelligent decisionmaking. See One Largo Metro LLC; Metroview Dev. Holdings, LLC; King Farm Assocs., LLC, B-404896 et al., June 20, 2011, 2011 CPD ¶ 128 at 14. Selection officials should reasonably consider the underlying bases for ratings, including the advantages and disadvantages associated with the specific content of competing proposals and quotations, in a manner that is fair and equitable and consistent with the terms of the solicitation. See MD Helicopters, Inc.; AgustaWestland, Inc., B-298502 et al., Oct. 23, 2006, 2006 CPD ¶ 164 at 15.

substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the agency's evaluation of quotations are found. See, e.g., Special Servs., B-402613.2, B-402613.3, July 21, 2010, 2010 CPD ¶ 169 at 4.

Challenge to the Evaluation of AlphaTRAC

Finally, the protester contends that the evaluations of AlphaTRAC's technical and cost/price quotations were unreasonable. Protest at 11; Comments at 17, 20. Information Ventures does not support this assertion with specific facts, other than to claim, for example, that it believes there was no reasonable or objective basis to support the high ratings AlphaTRAC's quotation was given, and that the awardee's proposed level of effort was not commensurate with the government estimate. The crux of Information Ventures' argument is that a review by our Office would furnish facts to support Information Ventures' belief that the evaluation was improper. Protest at 12-13; Comments at 20.

Our Office does not conduct investigations as part of our bid protest function. Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(c)(4), (f) (2013). These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. Pacific Photocopy and Research Servs., B-278698, B-278698.3, Mar. 4, 1998, 98-1 CPD ¶ 69 at 4. We dismiss the protester's challenge to the agency's evaluation of the non-price factors of AlphaTRAC's quotation.

Information Ventures also argues that the agency failed to conduct a proper price reasonableness analysis with respect to AlphaTRAC's price. Comments at 21. This argument reflects a lack of understanding as to the distinction between price reasonableness and realism. The purpose of a price reasonableness review is to determine whether the prices offered are too high, as opposed to too low. Sterling Servs., Inc., B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 3; WorldTravelService, B-284155.3, Mar. 26, 2001, 2001 CPD ¶ 68 at 4 n.2. Since AlphaTRAC's price was lower than the protester's, a challenge on the basis of price reasonableness has no merit.

Arguments that an agency did not perform an appropriate analysis to determine whether prices are too low, such that there may be a risk of poor performance, concern price realism, not price reasonableness. C.L. Price & Assocs., Inc., B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3; SDV Solutions, Inc., B-402309, Feb. 1, 2010, 2010 CPD ¶ 48 at 4. To the extent Information Ventures's protest was meant to challenge the agency's failure to recognize the awardee's price as too low, it also has no merit, since the RFQ did not provide for a price realism analysis.

In this regard, the solicitation contemplated the award of a fixed-price (labor hour) contract and did not request the submission of cost or pricing data. RFQ at 2. As such, the performance of a price realism analysis here would have been inconsistent with the terms of the solicitation and thus improper.

The protest is denied.

Susan A. Poling
General Counsel