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Decision

Matter of: Bannum, Inc.

File: B-408736

Date: November 21, 2013

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Alex D. Tomaszczuk, Esq., and Daniel S. Herzfeld, Esq., Pillsbury Winthrop Shaw Pittman LLP, for Alston Wilkes Society, Inc., an intervenor.
William D. Robinson, Esq., and Seth Bogin, Esq., Department of Justice, for the agency.
Paul E. Jordan, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of adequacy of source selection decision is denied where selection official analyzed strengths of both proposals and reasonably concluded that awardee's superior technical proposal strengths and lower price outweighed protester's higher rating under more important past performance factor.

DECISION

Bannum, Inc., of Odessa, Florida, protests the Department of Justice, Federal Bureau of Prisons' award of a contract to Alston Wilkes Society, Inc., of Columbia, South Carolina, under request for proposals (RFP) No. 200-1182-SE, for residential reentry center (RRC) services in Florence, South Carolina. Bannum challenges the source selection decision.

We deny the protest.

The RFP contemplated award of a fixed-price contract, for a 1-year base period with four 1-year options, to furnish the personnel, management, equipment, supplies, and services necessary to operate a residential reentry center for a minimum of 24 and maximum of 40 inmates. The center will provide employment and residence development and other self-improvement opportunities to assist federal offenders during their transition from prison to the community.

Award was to be made to the offeror whose proposal represented the best value considering three factors (in descending order of importance): past performance; technical/management, including equally-weighted subfactors for site location, accountability, programs, facility, and personnel; and price. The non-price factors, combined, were significantly more important than price. The agency used a color/adjectival rating system including blue/very good, green/acceptable, yellow/poor, and red/unacceptable. The agency also performed a risk assessment on each factor to determine the degree of confidence in the offeror's ability to perform the effort described in the proposal.

Bannum and Alston Wilkes submitted proposals in response to the RFP. The agency conducted three rounds of discussions and twice requested final proposal revisions. The final revised proposals were evaluated as follows:

	Bannum	Alston Wilkes
Past Performance	Very Good	Acceptable
Technical/Management	Acceptable	Very Good
Site location	Acceptable	Very Good
Accountability	Very Good	Very Good
Programs	Acceptable	Very Good
Facility	Acceptable	Acceptable
Personnel	Very Good	Very Good
Price	\$6,380,808	\$6,364,675

Based on his detailed consideration of offerors' respective proposals, ratings and strengths--no weaknesses remained--under each factor and subfactor the contracting officer, as source selection official (SSO), determined that Alston Wilkes' proposal represented the best overall value. Upon learning of the resulting award to Alston Wilkes, and after a debriefing, Bannum filed this protest.

In its initial protest, Bannum argued that the agency had improperly evaluated its proposal under the technical/management factor. Specifically, Bannum asserted that the agency failed to take into account various elements of its proposed approach (e.g., [deleted]) which, in the protester's view, warranted the highest (very good) ratings.

In its report, the agency responded that it had considered all of the elements identified by Bannum, and for some, including [deleted], had assigned strengths to the proposal. Contracting Officer's Statement at 4. As to other proposed elements, e.g., [deleted], the agency disagreed with Bannum as to their value as strengths, instead finding that the protester's proposal merely met the RFP's requirements in the relevant areas. Id. at 5.

In its comments on the agency report, Bannum focused on the source selection and tradeoff and provided no rebuttal to the agency's position on assigned ratings and

strengths.¹ Where, as here, an agency specifically addresses an issue raised by the protester in its initial protest, and the protester fails to rebut the agency response in its comments, we consider the issue abandoned by the protester and will not consider it. Liberty Street East Assocs., B-299486.3, June 15, 2007, 2007 CPD ¶ 112 at 3.

Bannum asserts that because its proposal was rated higher under the more important past performance factor, the proposal overall was technically superior to Alston Wilkes' proposal, such that the proposal represented the best value notwithstanding its slightly higher price. According to the protester, the agency's source selection decision was not adequately documented.

Price/technical tradeoffs may be made in deciding between competing proposals. Notwithstanding a solicitation's emphasis on technical merit, an agency properly may select a lower-priced, lower technically rated proposal if it decides that the cost premium involved in selecting a higher-rated, higher-priced proposal is not justified, given the acceptable level of technical competence available at the lower price. Tidewater Homes Realty, Inc., B-274689.5, Aug. 11, 1998, 98-2 CPD ¶ 40 at 4. The propriety of such a tradeoff turns, not on the difference in technical scores or ratings per se (since they are merely guides for the selection official), but on whether the agency's judgment concerning the significance of the difference was reasonable and adequately justified in light of the evaluation scheme. Park Tower Mgmt. Ltd., B-295589, B-295589.2, Mar. 22, 2005, 2005 CPD ¶ 77 at 8. Source selection judgments must be documented, and must include the rationale for any business judgments and price/technical tradeoffs made or relied upon by the agency. General Dynamics Info. Tech., Inc., B-406059.2, Mar. 30, 2012, 2012 CPD ¶ 138 at 4. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision. See Terex Gov't Programs, B-404946.3, Sept. 7, 2011, 2011 CPD ¶ 176 at 3. Rather, the documentation need only be sufficient to establish that the agency was aware of the relative merits of and costs of the competing proposals and that the source selection decision was reasonably based. Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 11.

The source selection decision was unobjectionable. In this regard, the SSO's detailed analysis of the competing proposals was comprised of a 35-page decision

¹ In addition, Bannum in its initial comments challenged the evaluation of Alston Wilkes' proposal with regards to the ability of its facility to house sex offenders. Comments at 4-5. Again, in its supplemental report, the agency responded in detail explaining that the RFP did not provide for evaluation of the ability to house such offenders. Supplemental Agency Report at 2. Since Bannum submitted no response to the agency's explanation, we also treat this issue as abandoned and not for consideration.

supporting his selection of Alston Wilkes' proposal. With regard to the technical management factor, the SSO found that Alston Wilkes' proposal provided significant qualitative benefits, as evidenced by an evaluated 7 significant strengths and 8 strengths. Source Selection Decision (SSD) at 34. For example, he specifically praised Alston Wilkes' proposed requirement that [deleted]. Id. at 33; Contracting Officer's Statement at 6. He also singled out Alston Wilkes' proposal of [deleted]. SSD at 33; Contracting Officer's Statement at 6. In addition, Alston Wilkes' proposal received significant strengths for such elements as [deleted]. SSD at 21-28. In contrast, Bannum's proposal received only two significant strengths ([deleted]) and five strengths under the technical management factor. SSD at 15-20.

While recognizing that Bannum received a higher rating under the more important past performance rating, the record reflects that the SSO viewed Alston Wilkes' clear superiority under the technical management factor, when combined with Alston Wilkes' lower price, to be more important than Bannum's past performance advantage. SSD at 1, 34; Contracting Officer's Statement at 7. In sum, the record includes a well-documented rationale, based on the individual attributes of each proposal, for the SSO's conclusion that Alston Wilkes' proposal represented the best overall value. While Bannum disagrees with the SSO's reasoning on the relative merit of the proposals, that alone provides no basis for finding the selection decision to be unreasonable. Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4.

The protest is denied.

Susan A. Poling
General Counsel