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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Heartland Technology Group, LLC

File: B-412402.2

Date: September 29, 2016

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Nicole P. Moriarty, Esq., and Brittney R. McClain, Esq., Kutak Rock LLP, for the protester.
John E. Jensen, Esq., Alexander B. Ginsberg, Esq., and Selena M. Brady, Esq., Pillsbury Winthrop Shaw Pittman LLP, for Ace Info Solutions, Inc., the intervenor.
Antonio T. Robinson, Esq., Department of Agriculture, for the agency.
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency reasonably evaluated awardee's price as realistic where the agency determined that the awardee's rates were lower than the average market rates, but considered the nature of the solicitation requirements and the location where the higher-risk labor categories would be performed, and concluded that the awardee could successfully perform the contract.

2. Protest that agency failed to properly perform a best-value tradeoff is denied where the agency's source selection decision compared the vendors' strengths and weaknesses and concluded that the protester's higher-rated quotation was not worth its substantially higher price.

DECISION

Heartland Technology Group, LLC, of Overland Park, Kansas, protests the U.S. Department of Agriculture's (USDA) award of a contract to Ace Info Solutions, Inc., pursuant to request for quotations (RFQ) No. AG-3144-S-15-0018, to provide various information technology (IT) services. Heartland protests that the agency failed to properly perform a price realism evaluation and failed to make a reasonable best-value tradeoff determination.

We deny the protest.

BACKGROUND

In June 2015, the USDA issued the solicitation, via the General Services Administration (GSA) e-Buy system, to holders of GSA's 8(a) Streamlined Technology Acquisition Resources for Services II (STARS II) contract.[1] The solicitation contemplated award of a hybrid fixed-price, time-and-materials task order to provide IT services in five functional areas[2] for the USDA's Office of the Chief Information Officer (OCIO) Enterprise Application Services (EAS).[3] RFQ, at 14, 31. The solicitation reflected the agency's assumption that work under the task order will be performed at either Fort Collins, Colorado, or Washington, D.C., and established various labor categories, along with estimated hours, for which vendors were required to proposed fixed-price labor rates.[4] RFP at 39-40,

The solicitation provided for a best-value award and established the following evaluation factors: past performance,[5] management/technical approach,[6] and

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[1] The 8(a) STARS II contract is a government-wide, multiple-award, indefinite-delivery/indefinite-quantity contract set aside for small disadvantaged business concerns.

[2] The five functional areas were: (1) program/project management and quality assurance services; (2) IT services support for application program/project development; (3) IT security management; (4) business development/business management; and (5) help desk services. Agency Report (AR), Tab 4, RFQ at 12.

[3] The solicitation stated that "EAS is an organization within the [USDA] that provides federal government agencies with innovative business application services that result in successful mission and business information technology performance." Id. at 31.

[4] The solicitation prohibited vendors from substituting their own labor mix or levels of estimated hours, and provided that "[t]]he proposed discounted rate will be the maximum rate allowable for each category under the task order." Id. at 20.

[5] Under this factor, the solicitation provided that the agency would consider information regarding the vendors' recent and relevant past performance, and would assign confidence ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence, and unknown confidence. Id. at 18.

[6] Under the technical/management approach factor, the solicitation established six equally-weighted subfactors: (a) strategy for effective and efficient management of contract activities; (b) methods, techniques and phases of application development and deployment; (c) quality control approach; (d) onboarding and retention; (e) risk analysis and management approach; and (f) solution to deliver timely, standard, stable, reliable, secure, flexible, responsive, and cost effective services. Id. at 19. The solicitation provided for assignment of the following ratings: excellent, very good, satisfactory, poor, and unacceptable. Id. at 19-20.

price.[7] RFQ at 15. The solicitation stated that past performance and management/technical approach were each more important than price and that, combined, those factors were significantly more important than price. Id. at 15-16.

On or before the August 20, 2015 closing date, the agency received 16 quotations, including those submitted by Ace and Heartland.[8] On October 19, Heartland was notified that award had been made to Ace. On October 26, Heartland filed a protest with this Office. In that protest, Heartland asserted, among other things, that the agency had failed to perform a price realism analysis and failed to make a reasonable best-value determination. Heartland Protest, Oct. 26, 2015, at 3-19.

On November 20, the agency advised our Office that it would take corrective action to include reevaluation of quotations, and would thereafter make a new source selection decision; accordingly, we dismissed Heartland's protest. Thereafter, Ace's and Heartland's quotations were evaluated as follows:[9]

	Tech/Mgmt Approach	Past Performance	Price
Ace	Very Good	Satisfactory	$106,223,963
Heartland	Excellent	Substantial	$125,907,575

AR, Tab 16, Source Selection Decision Document, at 12, 14.

In connection with its evaluation and source selection decision, the agency performed, and documented, a price realism analysis. AR, Tab 14, Price Realism Analysis; Tab 15, Price Realism Analysis Supporting Spreadsheet. In performing that analysis, the agency calculated average labor rates for each of the solicitation's 37 labor categories, based on information drawn from two databases: Salary.com and the Mountain States Employee Council 2015 Survey of Compensation for IT Employees in Colorado. AR, Tab 14, Price Realism Analysis, at 3-5.

The agency then compared each vendor's proposed rate for each labor category to that category's average rate, and made risk assessments based on the following scale: low risk was assigned to rates that were within 10 percent of the labor

[7] With regard to price, the solicitation provided that the vendors' proposed labor rates would be applied to the solicitation's estimated quantities for each labor category, and that each vendor's total price would be calculated as the aggregate of the extended amounts. The solicitation further provided that prices would be evaluated for reasonableness and realism. Id. at 20-21.

[8] Heartland is the incumbent contractor for these requirements.

[9] The quotations submitted by the other vendors, and the agency's evaluation thereof, are not relevant to this protest and are not further discussed.

category's average rate; moderate risk was assigned to rates between 11 and 15 percent below the average rate; and high risk was assigned to labor rates that were 16 percent or more below the average rate. Id. at 6. Applying this scale, the agency concluded that the rates Ace had proposed for 21 of the solicitation's 37 labor categories reflected low risk; that 7 rates reflected moderate risk; and that 8 rates reflected high risk.[10] Id. at 7. Based on this analysis, the agency concluded there was "an overall moderate risk to the Government of [Ace] being able to successfully recruit qualified personnel." Id. at 8. With regard to the 8 high-risk rates, the agency noted that 6 of them were for labor categories that would be performed in the Washington D.C. area, and performed further analysis, stating:

> The Washington DC location . . . has a higher pool of qualified and skilled labor to fill IT support positions and functions. Based on this higher pool there is a higher probability that the labor pool will support the requirement at the proposed labor rates. As the Government has not dictated length of experience requirements it is safe to assume that a recent college graduate with the skills necessary (or a skilled employee with less experience) would accept an offer at a salary below the average salary rates found through rate research identified. The Government's only requirement for labor is that skilled labor is provided which will meet the requirements outlined.
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> The information found shows average salary. With the use of averages it is safe to assume that the labor market pays salaries that are both higher than and lower than the average rate listed in these findings. Therefore there are resources providing the required support in the labor pool at rates lower than the averages found in the presented research.
>
> Without cost or pricing data showing specifically what the salary rates for each category will be from Ace, the Government cannot be 100% certain that the actual salary being offered and paid is what has been found through research. The breakdown of overhead and profit is at contractor discretion and the Government has no interest, for this requirement via an established GWAC [government-wide acquisition contract], in dictating how a contractor operates their business. It would not be out of the realm of operability for Ace to operate a single labor category at a billing loss to pay a higher salary for a category deemed high risk while realizing a higher profit due to a lower salary for a category deemed low risk to "balance" their billing. The Government again does not care to see or manage a contractor's back end accounting, only that the requirement as outlined in

[10] The agency concluded it did not have sufficient information to make a risk assessment with regard to one of the labor categories. AR, Tab 14, Price Realism Analysis, at 7.

> award is successfully being completed at the best value for the Government.

Id. at 8-9.

Following the agency's comparison of rates and its additional price-realism analysis, the agency concluded:

> [T]he Government has identified that there is a risk with some of the labor category rates proposed by Ace being somewhat low. However, based on the entirety of the information found and presented in this document and analysis, the Government has confidence that Ace Information Systems can successfully perform and meet the requirements at the rates proposed.

Id. at 9.

On June 3, the agency made a new source selection decision, again selecting Ace for award. The agency's source selection decision document contained a subfactor-by-subfactor comparison of the technical/management strengths and weaknesses in Ace's and Heartland's quotations, and concluded:

> As identified above, Heartland's approach in the technical/management [factor] provides advantages to that of Ace Information. However, as also identified above, both contractors provide detailed, complete and thorough approaches but Heartland provided additional details that Ace did not. There is also information contained above whereby some details and information provided by Ace was not provided by Heartland.

AR, Tab 16, Source Selection Decision Document, at 18-22.

Similarly, the agency's source selection decision document contained a comparison of Ace's and Heartland's past performance information, noting that Heartland's primary advantage was that of being the incumbent, concluding:

> [T]he advantage Heartland provides in having done the exact work required is not a large advantage due to the fact that Ace's past performance as a

whole clearly shows they have the ability as a company to provide all of the services required in performance.

Id. at 22-24.

Finally, the agency noted that Heartland's price was approximately $19 million higher than Ace's price, and concluded:

> Although the award criteria state that when combined, Technical and Past Performance are substantially more important than price, the pricing of Heartland is beyond substantially more than the price of Ace Info. Based on side by side comparison using evaluation findings for each offeror, the Government cannot reasonably justify the price difference for the minimal gains provided by the slightly higher ratings received by Heartland.
>
> The Government acknowledges, as demonstrated in the preceding findings, that the Heartland proposal does in fact provide advantages to the Government over the Ace Proposal. The advantages provided are not substantial as required by the evaluation criteria when compared to the price premium proposed by Heartland. It is not in the best interest of the Government, nor in line with the stated evaluation criteria for trade-off, for the Government to issue an award to Heartland at the proposed premium price when the advantages documented are not substantial.

Id. at 24.

On June 10, 2016, the agency notified Heartland that Ace had been selected for award. This protest followed.[11]

DISCUSSION

Heartland protests that the agency failed to conduct a proper price realism assessment and failed to make a reasonable best-value tradeoff determination. As discussed below, we find no merit in Heartland's protest.[12]

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[11] Because the value of the awarded task order is over $10 million, our Office has jurisdiction to review this protest. 41 U.S.C. § 4106(f)(1)(B).

[12] In pursuing this protest, Heartland has submitted arguments that are in addition to, or variations of, those discussed below. We have considered all of Heartland's allegations and find no basis to sustain its protest.

Price Realism

First, Heartland protests that the agency failed to perform a “meaningful price realism” analysis, asserting that any price realism analysis the agency conducted “was conducted in a superficial manner to serve as window dressing.” Protest at 4. Heartland further asserts that the only way the agency could have performed a meaningful price realism analysis was to compare Ace’s proposed rates to the rates Heartland charged under the incumbent contract. Protest at 19; Heartland Comments on AR, Aug. 12, 2016, at 2.

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 or quotation. Ball Aerospace & Techs. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. The nature of the analysis required to assess whether an offeror’s proposed price is so low as to reflect a lack of competence or understanding is generally a matter within the agency’s discretion. AMEC Earth & Envtl., Inc., B-404959.2, July 12, 2011, 2011 CPD ¶ 168 at 8; Star Mountain, Inc., B-285883, Oct. 25, 2000, 2000 CPD ¶ 189 at 6. Further, there is no general requirement that an agency base its analysis on a comparison to the incumbent contractor’s prices, see Science & Mgmt. Res., Inc., B-291803, Mar. 17, 2003, 2003 CPD ¶ 61 at 3, and 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.

Here, the record shows that the agency conducted a reasonable price realism analysis. As noted above, the agency calculated average labor rates for each of the solicitation’s various labor categories, and compared the vendors’ proposed rates to those average rates. Based on that analysis, the agency concluded that Ace’s proposed rates were relatively low and created “an overall moderate risk” to the agency. AR, Tab 14, Price Realism Analysis, at 8. Nonetheless, the agency further considered the location at which the higher-risk labor categories would be performed, concluding that the size of the available labor pool in that area would, to some extent, mitigate the risk. Id. The agency further noted that, because the solicitation did not dictate experience levels for the labor categories, and the agency’s rate comparison was based on average market rates, it was reasonable to assume that qualified individuals would be available at rates both above and below the average rates. Id. Finally, the agency noted that the rates proposed by both Heartland and Ace did not disclose the level of overhead and profit that each quotation reflected. Id. Based on all of its comparisons and analyses, the agency concluded that it “has confidence that Ace Information Systems can successfully perform and meet the requirements at the rates proposed.” Id. at 9. Based on our review of the record, we cannot conclude that the agency’s price realism analysis was either inadequate or unreasonable.[13] Accordingly, Heartland's protest challenging that analysis is denied.

Best-Value Tradeoff

Next, Heartland protests that the agency's best-value determination was contrary to the terms of the solicitation, which provided that the technical/management and past performance evaluation factors were significantly more important than price. In this regard, Heartland characterizes the RFP as providing that price would "only be given a major consideration" if the vendors' quotations were considered equal under the non-price factors, and asserts that its "modestly higher" price should have been "of minor importance" since Heartland's quotation was rated higher than Ace's with regard to past performance and technical/management approach. Protest at 3-4.

Where, as here, a solicitation provides for a best-value award and identifies the factors for which tradeoffs will be made, a procuring agency must make its source selection decision consistent with those solicitation provisions. Blue Rock Structures, Inc., B-293134, Feb. 6, 2004, 2004 CPD ¶ 63 at 5. Nonetheless, it is well-settled that an agency may properly select a lower-rated, lower-priced proposal where it reasonably concludes that the benefits of the higher-rated proposal are not worth the price premium. See, e.g., Bella Vista Landscaping, Inc., B-291310, Dec. 16, 2002, 2002 CPD ¶ 217 at 4. The extent of required tradeoffs is governed by the test of rationality and consistency with the evaluation criteria. Best Temporaries, Inc., B-255677.3, May 13, 1994, 94-1 CPD ¶ 308 at 3.

Here, as discussed above, the agency's source selection decision document contains an extensive comparison of the evaluated strengths and weaknesses in both vendors' quotations. AR, Tab 16, Source Selection Decision Document, at 18-24. Specifically, with regard to the technical/management evaluation factor, the agency performed a subfactor-by-subfactor comparision that recognized the

[13] Heartland also asserts that the agency was required to compare Ace's proposed rates to the incumbent rates because "Ace's proposal was predicated on retaining 100% of the incumbent staff." Heartland Comments, Aug. 12, 2016, at 7. However, there is no general requirement that an agency price realism analysis must include a comparison to the incumbent's prices. See Science & Mgmt. Res., Inc., supra. Further, Heartland mischaracterizes Ace's quotation with respect to incumbent staff. While Ace's quotation stated that it expected to retain all "qualified incumbents," AR, Tab 17, Ace Technical/Management Quotation, at 50, it also identified various alternative staffing strategies. Id. at 13-14, 49-50, 55. Finally, the agency's contemporaneous evaluation record does not indicate that Ace's rating under the technical/management evaluation factor was materially affected by Ace's statement regarding its retention of "qualified incumbents."

superiority of Heartland's proposal, but also documented the agency's assessments regarding the relative value of that superiority under each subfactor, along with the agency's overall conclusion that Heartland's advantages were not significant. Id. at 18-22. Similarly, the agency performed a comparison of the vendors' past performance information, concluding that Heartland's evaluated superiority under that factor was primarily due to its status as the incumbent and concluded that, in the context of Ace's positive past performance evaluation, the value to the government of Heartland's incumbency was "not a large advantage." Id. at 24. Finally, the agency considered Heartland's $19,683,612 price premium,[14] and concluded that, even though the technical/management and past performance factors were substantially more important than price, Heartland's price was "beyond substantially more" than Ace's price.[15] Accordingly, the agency concluded that Heartland's price premium outweighed the "minimal gains provided by Heartland's slightly higher ratings." Id.

In short, in performing its best-value tradeoff determination, the agency specifically recognized the evaluated superiority of Heartland's quotation under the non-price factors; made assessments regarding the relative value of that superiority; considered the magnitude of Heartland's price premium; and concluded that the benefits offered by Heartland's higher-rated quotation were not worth Heartland's substantially higher price. We find nothing unreasonable in the agency's assessments and conclusions; accordingly, we find no merit in Heartland's protest challenging the agency's best-value tradeoff.

The protest is denied.

Susan A. Poling
General Counsel

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[14] Heartland's price of $125,907,575, minus Ace's price of $106,223,963, results in a price premium calculation of $19,683,612.

[15] Throughout its pursuit of this protest, Heartland has repeatedly characterized its $19,683,612 price premium as "modest," see Protest at 3; Heartland Comments, Aug. 12, 2016, at 1, 7, 19, 20; and represented that premium to be "approximately 15%." See Protest at 3, 20, 21; Heartland Comments, Aug. 12, 2016, at 19, 20. Contrary to Heartland's representations, Heartland's proposed price reflected a price premium in excess of 18.5%. ($19,683,612 ÷ $106,223,963 = .1853 or 18.53%.) Further, Heartland's multiple characterizations of its 18.5% price premium as "modest" does not render unreasonable the agency's contrary determination that Heartland's price premium was "beyond substantial[]." AR, Tab 16, Source Selection Decision, at 24.