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Decision

Matter of: Agile Defense, Inc.

File: B-408029; B-408029.2

Date: May 31, 2013

J. Scott Hommer, III, Esq., Christina K. Kube, Esq., Paul A. Debolt, Esq., Keir X. Bancroft, Esq., Elizabeth A. Buehler, Esq., and George W. Wyatt, IV, Esq., Venable LLP, for the protester.

Paul E. Pompeo, Esq., William S. Speros, Esq., and Dana E. Peterson, Esq., Arnold & Porter LLP, for Advanced Systems Development, Inc., the intervenor.

James W. DeBose, Esq., Department of Defense, Defense Information Systems Agency, for the agency.

Katherine I. Riback, Esq., and Jonathan L. Kang, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of the protester's proposal as technically unacceptable is denied where the agency reasonably found that the protester's proposal failed to adequately demonstrate that it met the requirements of the technical approach subfactor.

DECISION

Agile Defense, Inc., of Fairfax, Virginia, protests the award of a contract to Advanced Systems Development, Inc. (ASD), of Alexandria, Virginia, under request for proposals (RFP) No. HC1047-13-R-4000, issued by the Department of Defense, Defense Information Systems Agency (DISA) for information technology (IT) services in support of the Joint Staff (JS) Directorate for Command, Control, Communications and Computers/Cyber (J6) and the JS Information Network enclaves.¹ Agile argues that the agency improperly found that its proposal was technically unacceptable, and therefore ineligible for award.

¹ The JS J6 operates and maintains an internal IT enterprise which provides administrative computing services to the Office of the Chairman of the Joint Chiefs of Staff, the Vice and Assistant Chairman and their support staffs, the JS Director, civilian and military personnel, and support contractors assigned to the Joint Staff at

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We deny the protest.

BACKGROUND

The RFP was issued as a competitive small business set-aside and anticipated the award of a contract with fixed-price, cost-plus-fixed-fee, and cost-reimbursable contract line item numbers (CLINs), for a 1-year base period and four 1-year option periods. RFP, Amend. 8 at 52.

The RFP stated that award would be made to the lowest-priced, technically acceptable offer that had a performance rating of substantial confidence. RFP, Amend. 9, § M.5. In the event the lowest-priced, technically-acceptable proposal had a performance rating of less than substantial confidence, the agency reserved the right to award a contract to other than the lowest-priced offeror. Id. § M.6. The evaluation factors were as follows: (1) technical/management, (2) performance confidence, and (3) price. Id. § M.3.1-M.4. The technical/management factor had four subfactors: (1) technical approach, (2) management structure, (3) staffing plan, and (4) transition plan. Id. § M.3.1. As relevant here, the technical approach subfactor identified the following seven task areas: (1) task order management, (2) IT service desk support, (3) knowledge engineering, (4) network system operations, (5) system integration, (6) cable plant, and (7) surge support. Id. § M.3.1.1. The performance work statement (PWS) identified requirements for each of the task areas. RFP, Amend. 8, § C.

The solicitation instructed offerors that their proposals must include “sufficient detail for effective evaluation and for substantiating the validity of stated claims.” RFP, Amend. 8, § L.3.3. Offerors were instructed that their proposals should not “simply rephrase or restate the Government’s requirements but rather provide convincing rationale to address how the Offeror intends to meet these requirements.” Id. The RFP also required offerors to propose an approach “to meeting or exceeding the minimum performance or capability requirements of each technical/management subfactor.” RFP, Amend. 8, § L.6.2.1. The offerors were warned that “[f]ailure to meet a requirement may result in an offer being determined technically unacceptable.” RFP, Amend. 9, § M.1. The solicitation also advised offerors the following regarding eligibility for award:

A rating of “Acceptable” will be required in all subfactors to be eligible for award. If any of the initial proposal(s) are evaluated as

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the Pentagon; Crystal City, Virginia; Hampton Roads, Virginia; and several smaller support sites. Agency Report (AR) at 2.

“Unacceptable” for any of the technical subfactors, the “Unacceptable” proposal(s) will not be considered further for award.

RFP, Amend. 9, § M.3.

DISA received proposals from 12 offerors, including Agile and ASD, and ranked all of the proposals from lowest to highest based upon their proposed overall cost/price. AR at 5. The agency then evaluated the five offerors with the lowest overall cost/price proposals for technical acceptability. Agile proposed the lowest overall price of \$113,985,191.95; Agile’s proposal, however, received an unacceptable rating under the technical approach subfactor and the staffing plan subfactor. AR, Tab 7, Selection Recommendation Document at 6. Because the solicitation required a rating of “acceptable” in all subfactors to be considered eligible for award, the agency rejected Agile’s proposal as technically unacceptable. The agency made award to ASD as the offeror who submitted the lowest-priced, technically acceptable proposal (\$139,744,630.81) with a satisfactory past performance rating. AR, Tab 8, Agency Letter to Agile (Feb. 14, 2013), at 1. This protest followed.

DISCUSSION

Agile argues that DISA unreasonably found its lower-priced proposal unacceptable under the technical approach and staffing plan subfactors. We conclude that the agency’s evaluation of the protester’s proposal under the technical approach factor was reasonable. In addition, since offerors were required to receive acceptable ratings under each evaluation subfactor to be considered for award, we need not address the evaluation of the protester’s proposal under the staffing plan subfactor.²

With regard to the technical approach subfactor evaluation, the agency concluded that the protester’s approach was unacceptable in four separate areas: (1) IT Service desk support, (2) network system operations, (3) system integration, and (4) cable plant. AR, Tab 7, Selection Recommendation Decision at 8. We will discuss the agency’s evaluation of each task in turn.³

² Agile raises other collateral issues. We have reviewed all of the protester’s arguments and find that none provides a basis to sustain the protest.

³ Although DISA’s response to the protest did not specifically argue that the agency’s evaluation for each of the four tasks provided independent bases for finding the protester’s proposal unacceptable, the record clearly states that the agency considered the approach for each task to be “unacceptable.” See AR, Tab 7, Selection Recommendation Decision at 8-11. In light of the solicitation’s evaluation scheme, it appears that an unacceptable rating under any of the tasks would have provided a basis to find the protester’s proposal unacceptable.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. A protester's mere disagreement with the agency's evaluation provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. An offeror is responsible for affirmatively demonstrating the merits of its proposal and risks the rejection of its proposal if it fails to do so. Arctic Slope World Servs., B-284481, B-284481.2, Apr. 27, 2000, 2000 CPD ¶ 75 at 7-8.

IT Service Desk Support

First, Agile argues that DISA unreasonably found its proposal unacceptable under the IT service desk support task. The solicitation required the contractor to "provide 24x7x365 dedicated executive/VIP [very important person] support Tier II technicians capable of meeting the SLA's [service level agreements] identified in Appendix B." RFP, Amend. 8, § C.6.2.3.1.⁴ The historical data provided in the RFP advised that the awardee must provide executive level support for approximately 225 VIPs at the Pentagon, and 75 at the agency's Hampton Roads facility. RFP § J, Attach. 1 at 3 (emphasis in original). The RFP also advised that there were an average of 228 service tickets per month, with a summer peak of 260 per month, and that "[b]ecause so many VIP tickets are solved on the spot, many are not tracked." Id.

DISA concluded that Agile's proposed technical approach was unacceptable because Agile's proposal did not address dedicated executive support located at the Hampton Roads facility. AR, Tab 7, Selection Recommendation Decision at 8. The agency also found that Agile's approach did not provide sufficient levels of staffing, overall. Id. at 8-9.

With regard to the requirement for dedicated executive/VIP staffing, the protester contends that the agency had a "preoccupation with the number of personnel

⁴ Currently, Tier I Service Desk support, which requires among other things, operating a service desk, is provided to all locations from the operations center physically located in the Pentagon. Tier II support includes, among other things, executive/VIP support, and is provided by service providers at the Pentagon and in Hampton Roads. RFP Amend. 8, PWS 3.2.2. The Executive Support Team is currently a subset of highly capable Tier II technicians skilled at customer relations with senior leaders and their staffs. RFP Amend. 8, PWS 3.2.3.

available on-site at the Hampton Roads facility” that amounts to an unstated evaluation criterion. Supp. Protest at 18. Agile contends that, while the RFP identified an overall number of VIP tickets per month (228) and the distribution of VIPs between the Pentagon (225) and Hampton Roads (75), this information did not adequately advise offerors of the specific level of support required for Hampton Roads. As a result, the protester argues, the agency could not reasonably assess a deficiency based on the protester’s failure to propose an adequate level of dedicated support for the Hampton Roads VIPs. We find no merit to this argument.

As discussed above, the RFP required offerors to propose dedicated support for VIPs at the Pentagon and Hampton Roads. RFP, Amend. 8, § C.6.2.3.1. We think the RFP clearly advised that the agency would evaluate whether offerors proposed a technical approach and level of staffing to meet this RFP requirement.⁵

The record further shows that Agile proposed dedicated executive/VIP level support only for the Pentagon facility. AR, Tab 13, Agile’s Proposal, Vol. II, § B-1.2.3. For the Hampton Roads facility, Agile proposed [deleted] to perform multiple tasks, including executive support. Id. §§ B-1.2.3, B-1.2. Thus, while Agile proposed personnel at the Hampton Roads facility that were [deleted], including executive support, the agency reasonably found that this did not meet the RFP requirement for dedicated executive support for the Hampton Roads facility.⁶

With regard to DISA’s conclusion that Agile did not otherwise propose adequate levels of staffing, the protester contends that the agency “follow[ed] a rigid, mechanical application of its own historical workload data and Government estimate,” instead of acknowledging and giving the protester credit for its proposed efficiencies. Protest at 5.

⁵ To the extent that the protester contends that the RFP was flawed because it listed the historical average of 228 VIP tickets per month but did not break out that information by site, this allegation, to be timely, should have been raised prior to the due date for initial proposals. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (2013).

⁶ In fact, the protester acknowledges that the requirement to provide dedicated executive/VIP support within the time frames set forth in the applicable SLAs precluded an approach wherein staff at different locations could support each other. See Supp. Protest at 18; id., Exh. 7, Decl. of Agile Chief Operating Officer (Mar. 1, 2013) at 2. We think the protester’s statement here demonstrates that the agency reasonably concluded that the dedicated staff proposed by Agile to support the executive/VIP requirements at the Pentagon were not available to support the requirements at Hampton Roads.

Agile proposed a “[deleted]. . . to provide VTC [video teleconference] support, courier duties, and Executive Support” at the Hampton Roads facility. AR, Tab 13, Agile Proposal, Vol. II § B-1.2; Protester’s Comments at 8. Agile also proposed “[deleted].” Id. Agile contends that its Tier II technicians are able to perform the tasks necessary to support VIP needs, and that it proposed 10 Tier II technicians at the Hampton Roads facility who are capable of providing executive support. Supp. Protest at 17; AR, Tab 13, Agile Proposal, Vol. II at 61-62. Agile further states that its proposal relied on a virtual desktop infrastructure (VDI) process as an innovative and unique approach that would enable it to perform the various tasks with a lower level of staffing than the agency’s estimate. AR, Tab 13, Agile Proposal, Vol. II at 3; Protester’s Comments at 17. Along with the VDI process, Agile also stated that it would provide the Tier 0 (user self-service ticketing) services as an additional efficiency that would enable it to satisfactorily perform the work with a level of staffing below the agency’s estimate. AR, Tab 13, Agile Proposal, Vol. II § B-1.2.1.1.

DISA found that Agile proposed staffing levels insufficient to meet the historical workloads, and that Agile also proposed reducing its staffing over the life of the contract, using techniques such as VDI and Tier 0 ticketing. AR, Tab 7, Selection Recommendation Decision at 8. The agency found that Agile’s proposal did not explain how VDI and Tier 0 ticketing would allow Agile to reduce its staffing levels, and also meet the government’s requirements. AR, Tab 7, Selection Recommendation Document at 9. Specifically, DISA concluded that Agile’s proposal of “limited labor hours for Tier 2 in Year 1 and a 40% reduction over the out-years . . . [was] insufficient to meet the IT Service Desk Support SLAs.” AR, Tab 7, Selection Recommendation Decision at 8. DISA reached its conclusion based on historical data, and the agency’s assessment that “Tier II often requires desk-side customer support,” which posed a concern because “customers are spread across geographically-separate locations.” Id. The agency also noted that the two technologies cannot account for Agile’s reduced staffing levels given that VDI and Tier 0 ticketing are “not fully implemented across the Joint Staff.” Id.

Agile argues that the agency’s evaluation was similar to the improperly mechanical evaluation discussed in Orion Tech., Inc.; Chenega Integrated Mission Support, LLC, B-406769 et al., Aug. 22, 2012, 2012 CPD ¶ 268. Unlike in Orion, however, the record here shows that the agency did not mechanically use an undisclosed staffing estimate but instead performed a comprehensive review of Agile’s proposed approach, innovations, and proposed workforce and compared it to the historical data and SLAs described above. See AR, Tab 7, Selection Recommendation Decision at 8-9. Because an agency’s evaluation is dependent on the information provided in a proposal, it is the offeror’s responsibility to submit an adequately written proposal for the agency to evaluate. See Keystone Sealift Servs., Inc., B-401526.3, Apr. 13, 2010, 2010 CPD ¶ 95 at 4. Here, we conclude that while Agile proposed numerous efficiencies that it believed justified its proposed level of staffing, the agency reasonably identified concerns regarding the effectiveness of

the efficiencies, and as a result, concluded that the protester failed to propose adequate staffing.

Network System Operations

Next, Agile argues that DISA unreasonably concluded that it had not proposed adequate staffing to perform the network systems operations task under the technical approach subfactor. Agile primarily argues that the agency failed to recognize that it had proposed efficiencies and innovations that would allow it to perform the requirements with the proposed level of staff.

DISA found that Agile's proposed technical approach for network system operations was unacceptable because it did not provide sufficient staffing to perform the operations as described in PWS 5.7. AR, Tab 7, Selection Recommendation Decision at 9. The agency noted that the protester had proposed VDI as an "innovative process and unique approach" to meeting the performance requirements, but concluded that "AGILE's reliance on VDI again cannot justify the limited labor hours that AGILE proposed for Network Systems Operations." Id. Specifically, the agency concluded that the "implementation of VDI [would] drive tickets . . . from the Service Desk Tier I/II to Tier III." Id. DISA further concluded that the "reduced labor hours proposed for Tier III/SMEs [subject matter experts]⁷ in Year 1 and the reduction in out-years is insufficient to meet the required SLAs for outages based upon the historical data provided, the number of servers to administer/maintain, and the number of Tier III/SME-assigned tickets." Id. The agency also found that "AGILE has not shown that its proposed workforce is particularly skilled and efficient, or that it could satisfactorily perform the work with its proposed labor hours." Id.

Agile again argues that the agency's evaluation was improper because it relied on the mechanical application of historical data that was essentially applied as an unstated evaluation criterion. Protester's Comments at 23. The record here shows, however, that the agency reasonably considered whether Agile's approach to using innovations such as VDI justified its proposed level of staffing. See AR, Tab 7, Selection Recommendation Decision at 9. The protester also argues that the agency lacked a reasonable basis to conclude that its proposed workforce was not "particularly skilled and efficient." Again, however, the record shows that the agency concluded that neither the innovations proposed, nor the quality of the protester's proposed staff, justified Agile's reduced level of staffing. See id. While Agile disagrees with DISA's conclusions, we do not find that the agency's evaluation was unreasonable.

⁷ SMEs are often referred to as Tier III support in the RFP. RFP, Amend. 8, § C.5.5.2.

System Integration and Cable Plant

Finally, DISA found that Agile's proposed technical approach for System Integration was unacceptable because its proposal did not provide sufficient staffing to accomplish the tasks identified at all Joint Staff locations identified in the PWS. AR, Tab 5, Agile Technical Evaluation at 7. The agency specifically noted as follows:

[O]nly 2 of 21 FTEs highlighted in the BOE . . . are proposed for Hampton Roads in Systems Integration. Given that a large number of systems to be integrated reside at Hampton Roads as does half the customer base for requirement generation, Agile's technical approach is not sufficient to meet the Agency's System Integration requirements.

AR, Tab 5, Agile Technical Evaluation at 7.

DISA also found that Agile's technical approach for the cable plant task was insufficient to accomplish the listed task areas, especially considering that one of the three personnel are also tasked to provide overall Hampton Roads deputy program manager duties. AR, Tab 7, Selection Recommendation Decision at 10.

Agile responds, with regard to both concerns, that it could meet the solicitation requirements with the staff proposed based on its use of VDI and its understanding that many of the tasks could be accomplished remotely. Protester's Comments at 32-33, 37. The protester also argues, again, that the agency merely mechanically applied historical data in evaluation its proposal. For the reasons discussed above, we concluded that the agency's evaluation meaningfully considered both the protester's proposed level of staffing and its approach to performing the work using innovations, such as VDI. While Agile disagrees with the agency evaluation, we have no basis to conclude that the agency's determination in this regard was unreasonable or contrary to the solicitation.

In sum, because Agile's proposal did not address the requirements for the Technical Approach subfactor, we conclude that the agency reasonably found the protester's proposal technically unacceptable. In this regard, a procuring agency has discretion in determining whether a particular approach or product meets a solicitation's technical requirements, and we will not disturb the agency's determination unless it is shown to be unreasonable. Great Journey West, LLC, B-407045, Sept. 21, 2012, 2012 CPD ¶ 262 at 3.

The protest is denied.

Susan A. Poling
General Counsel