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Decision

Matter of: United Support Services, Inc.

File: B-420724

Date: August 5, 2022

Richard B. Oliver, Esq., and J. Matthew Carter, Esq., Pillsbury Winthrop Shaw Pittman LLP, for the protester.

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DIGEST

Protest challenging agency's evaluation of protester's proposal and its exclusion from the competition is denied where the record shows that the evaluation was reasonable.

DECISION

United Support Services, Inc. (USS), a small business of San Diego, California, protests the exclusion of its proposal from the competition under request for proposals (RFP) No. M95494-22-R-3001, issued by the Department of the Navy, U.S. Marine Corps (USMC) for information technology support services. The protester argues that the agency unreasonably evaluated its proposal as unacceptable.

We deny the protest.

BACKGROUND

On January 7, 2022, the USMC issued the solicitation in accordance with Federal Acquisition Regulation 16.505, as a set-aside for participants in the Small Business Administration's 8(a) program. Agency Report (AR), Tab 2, RFP Sections A-M, and attachments A, B, and L-1 (RFP) at 1 and 26.¹ The RFP was issued to holders of the Navy's SeaPort Next Generation (SeaPort NxG) contract, a multiple award

¹ Citations to the RFP refer to the Adobe PDF page numbers.

indefinite-delivery, indefinite-quantity (IDIQ) contract.² *Id.* The RFP contemplated the issuance of a cost-plus-fixed-fee, level-of-effort task order with a 5-year ordering period and a 6-month option period. *Id.* at 5 and 10. The solicitation stated that the agency intends to make award to the responsible offeror whose proposal conforms to the solicitation requirements and is determined to provide the best value. *Id.* at 38.

The solicitation instructed offerors of the following:

The proposal shall be clear, concise, and include sufficient detail for effective evaluation and for substantiating of the validity of stated claims. The proposal shall not simply re-phrase or re-state the Government's requirements, but rather shall provide convincing rationale to address how the Offeror intends to meet these requirements. Statements that the Offeror will provide a particular feature or objective without explaining how the Offeror proposes to meet that feature or objective are generally inadequate and may adversely impact the Government's evaluation of the Offeror.

Id. at 28. The solicitation went onto state that offerors shall assume the government "has no prior knowledge" of their capabilities and experience and will base its evaluation on the information presented in each offeror's proposal. *Id.*

The RFP provided for a three-phased evaluation. *Id.* at 38. The solicitation instructed offerors to submit information for "Gate Criteria: Technical Experience (Acceptable/Unacceptable)" in its volume I: gate criteria proposal submission, which could not exceed nine pages. *Id.* at 29. Offerors were to complete an attached corporate experience form (attachment L-1) by providing up to, but not more than, three contracts performed within the past five years from the date the solicitation was released. *Id.* The solicitation instructions explained that the offeror's corporate experience form should demonstrate how its proposed team has experience performing six services, including:

* * * *

d. Perform Business Intelligence (BI) development to analyze, develop, consolidate, optimize, and secure existing and new data processes and reporting capabilities utilizing common business intelligence toolsets;

* * * *

² The SeaPort-NxG IDIQ contract, awarded in January 2019, is the successor to the Navy's SeaPort-Enhanced (SeaPort-e) IDIQ contract, which was first awarded in April 2004. *ICI Services Corp.*, B-418255.5, B-418255.6, Oct. 13, 2021, 2021 CPD ¶ 342 at 2 n.1.

f. Provide services to an enterprise network consisting of at least six (6) web-based systems which supported a minimum of 4,000 concurrent users.

Id. at 30.

The agency would assess proposals under the “Gate Criteria” factor as either acceptable or unacceptable based on whether proposals met the minimum requirements for technical experience. The solicitation stated that an offeror would be considered acceptable if “the cumulative experience” of its three corporate experience references demonstrated performance of the six services identified in the evaluation criteria for the factor. *Id.* at 39. The RFP stated that an unacceptable rating under the gate criteria factor would “render the entire proposal ineligible for award without further evaluation.” *Id.* at 38.

Section I of the solicitation’s corporate experience form, attachment L-1, instructed offerors to complete a technical experience matrix to identify which of its corporate experience references demonstrate experience in providing the required six services. *Id.* at 131. In sections II through IV, the solicitation instructed offerors to provide a narrative describing how its experience performing each of its three corporate experience references meets each of the required services listed in the gate criteria. *Id.*

Proposals satisfying the gate criteria would then be evaluated, and award would be made on a best-value tradeoff basis, considering only the following factors: staffing approach, management approach, past performance, and total evaluated cost. *Id.* at 39-40.

Offerors, including USS (the incumbent), submitted proposals prior to the February 15 closing date. USS’s proposal included three contract experience references, one for its work as the incumbent with USMC and two involving work performed for the United States Geological Survey (USGS). AR, Tab 3, USS Corporate Experience Form at 3-9. The agency evaluated USS’s proposal as unacceptable under the gate criteria factor because the agency concluded that it did not specifically address all of the six services identified under the factor. AR Tab 5, Consensus Evaluation Report at 7-10. In particular, the agency determined that USS’s proposal failed to establish that it had experience securing existing and new data processes and reporting capabilities (an element under Section D business intelligence development), and providing services to an enterprise network which supported a minimum of 4,000 concurrent users (an element under Section F enterprise network services). *Id.* As a result, the agency did not further evaluate USS’s proposal under the remaining evaluation factors. The agency notified USS of its exclusion from further consideration, and this protest with our Office followed.³ AR, Tab 6, Notification of Unsuccessful Offeror.

³ The awarded value of the task order at issue exceeds \$25 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders

DISCUSSION

USS argues that the agency unreasonably evaluated its technical experience as unacceptable under the gate criteria factor because its proposal adequately addressed all six of the required services. USS also contends that the agency knew from USS's performance as the incumbent contractor for the same work that it had the specific experience the agency found to be missing from its proposal. For the reasons discussed below, we deny the protest.⁴

The evaluation of proposals in a task order competition is primarily a matter within the discretion of the procuring agency, since the agency is responsible for defining its needs and the best method of accommodating them. *Golden Key Group, LLC.*, B-419001, Nov. 16, 2020, 2021 CPD ¶ 135 at 3. In reviewing a protest of an agency's evaluation of proposals, it is not our role to reevaluate proposals; rather, our Office will examine the record to determine whether the agency's judgment was reasonable and consistent with the solicitation criteria. *Id.* An offeror's disagreement with the agency, without more, does not render the evaluation unreasonable. *STG, Inc.*, B-405101.3 *et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

As referenced above, the agency evaluated USS's proposal as unacceptable because it found that the proposal did not specifically address all of the required elements concerning business intelligence (section D) and providing services to an enterprise network (section F). AR, Tab 5, Gate Final Evaluation at 7-10. As discussed below, we find no basis to object to the agency's evaluation.

Business Intelligence Development Experience

After evaluating the corporate experience form, attachment L-1, provided by USS in its proposal, the agency determined that USS's proposal did not specifically demonstrate experience covering all of the required elements under section D, business intelligence development. Specifically, the agency determined that, while USS demonstrated experience with some of the required elements, none of the narratives for USS's three contract references established that the offeror had experience securing existing and new data processes and reporting capabilities. AR, Tab 5, Gate Final Evaluation at 7. Therefore, the agency concluded that USS's corporate experience form failed to demonstrate experience meeting all of the required elements under section D, business intelligence development experience.

under multiple-award IDIQ contracts established under the authority in title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B).

⁴ Although we do not specifically address each of the protester's allegations, we have considered each allegation and find none to be meritorious.

The protester responds that its corporate experience form identified the following incumbent experience, which demonstrates its experience securing existing and new data processes and reporting capabilities:

USS uses Tableau server to share worksheets, dashboards, data visualizations that are created in the Tableau Desktop application across the organization. This keeps the information within the data center.

Protest at 12 *quoting* AR, Tab 3, USS Corporate Experience Form at I-5.

In response, the agency disputes that the information quoted above demonstrated the required experience with “secur[ing] existing and new data processes and reporting capabilities utilizing common business intelligence toolsets.” Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 11 (*quoting* RFP at 30). As the agency notes, the solicitation required offerors to explain how their technical experience met each of the six requirements. An adequate explanation concerning how corporate experience met the specific requirements was especially important because the solicitation instructed that offerors should assume the Government “has no prior knowledge” of their capabilities and experience and would base its evaluation on the information presented in each offeror’s proposal. RFP at 28.

We find the agency reasonably determined that USS failed to demonstrate the required experience securing existing and new data processes and reporting capabilities in light of the solicitation language quoted above. The language cited by the protester does not provide any explanation or discussion of the required experience. It is an offeror’s obligation to submit an adequately written proposal for the agency to evaluate, and agencies are not required to piece together disparate parts of a firm’s proposal to determine if it meets the requirements. *Battelle Memorial Institute*, B-418047.3, B-418047.4, May 18, 2020, 2020 CPD ¶ 176 at 11. Since USS had the burden of submitting an adequately written proposal, yet failed to do so, we have no basis to question the reasonableness of the agency’s evaluation.

USS also argues that the agency should have considered the corporate experience described in other sections of USS’s corporate experience form, beyond section D, to determine whether USS’s experience met the requirements of section D. Comments at 3. In support of this argument, USS notes the RFP provided that “[a]n Offeror will be considered ‘Acceptable’ if the cumulative experience of its three (3) corporate experience references demonstrates performing all of the [gate criteria] services.” Protest at 8 (*quoting* RFP at 39). Accordingly, USS contends the agency should have considered the following language provided in section C (performing web application development) of USS’s corporate experience form for a contract it performed for USGS:

USS web application developers at EROS support includes migrating legacy web applications to a secure and modern runtime environment through containerization, implementing a standardized continuous integration and deployment process for rapid development, and

incorporating a new secrets management system to remediate vulnerabilities of previous solution.

AR, Tab 3, USS Corporate Experience Form at I-9.

The agency responds that the corporate experience form provided a space for an offeror's narrative under each of the six required services, and that it was not required to piece together language in other sections to determine if USS's proposal met specific requirements.⁵ COS/MOL at 13. We agree. Where a proposal is organized by sections that correspond to specific paragraphs in the solicitation requirements, an agency may reasonably expect that the proposal will address these requirements in the correspondingly numbered proposal sections. *WILLCOR, Inc.*, B-413390.4, Oct. 24, 2016, 2016 CPD ¶ 300 at 5.

USS also argues that, since it is the incumbent, the agency was well aware of its past experience and corporate experience in this area, and the agency was required to consider this information in its technical experience evaluation.⁶ Comments at 13. USS argues that because both the gate criteria corporate experience evaluation and the past performance evaluation were based on information from the same proposal form, the agency was obligated to consider information known by the evaluators, *i.e.*, USS's incumbent experience. Protest at 16.

Our Office has held that "in certain circumstances, when evaluating past performance, evaluators cannot ignore information of which they are personally aware, even if that information is not included in the offeror's proposal." COS/MOL at 17 (*quoting Int'l Bus. Sys., Inc.*, B-275554, Mar. 3, 1997, 97-1 CPD ¶ 114 at 5). As the agency notes, however, our Office has declined to extend this requirement to an agency's evaluation of technical experience. *Enterprise Solutions Realized Inc.; Unissant, Inc.*, B-409642 *et al.*, June 23, 2014, 2014 CPD ¶ 201 at 9; COS/MOL at 18. Thus we find the agency's evaluation of the gate criteria to be reasonable in this regard.

Although USS contends that the gate criteria evaluation was conducted based on the same information as the past performance evaluation, the agency points out that the past performance evaluation was not "one and the same" as the corporate experience evaluation. COS/MOL at 24. The agency evaluation of past performance was based

⁵ The agency also explains that its consideration of additional language in other sections of USS's corporate experience form would not have been sufficient, as an explanation concerning why this particular language met the solicitation requirements for the specific element at issue would still be lacking. COS/MOL at 14 n.7.

⁶ USS also argues that the solicitation established a nine page limitation for Volume I: Gate Criteria, which constrained its ability to adequately describe its corporate experience. Comments at 5. However this complaint is untimely under our Bid Protest Regulations. If the protester believed that the page limitation somehow prevented it from providing the detail required by the solicitation, then the protester was required to protest this issue before the due date for the receipt of proposals. 4 C.F.R. § 21.2(a)(1).

on its evaluation of the information in the offerors' volume I "Gate Criteria; Technical Experience," proposal submissions and information available in the Contractor Performance Assessment Reporting System, as well as information obtained from any or all references listed in the proposal. *Id. citing* RFP at 39. In addition, we note the evaluation criteria for the two factors were quite different. In evaluating the gate criteria factor, the agency checked to make sure that the offeror demonstrated certain corporate experience on an acceptable/unacceptable basis. RFP at 39. By contrast, when evaluating past performance, the agency assessed the degree of confidence that it had in the offeror's ability to meet the solicitation requirements based on the offeror's demonstrated record of performance. *Id.*

Therefore we find no reason to question the reasonableness of the agency's evaluation of USS's proposal, or to question its determination that the information provided in USS's proposal failed to establish the requisite experience in question.

Enterprise Network Services Experience

The final service, enterprise network services (section F), required offerors to "demonstrate how its proposed team has experience . . . [providing] services to an enterprise network consisting of at least six (6) web-based systems which supported a minimum of 4,000 **concurrent** users." RFP at 30 (emphasis added). USS's corporate experience reference for its USMC contract, included the following narrative in response to this requirement:

USS personnel at the FSB center are structured to support the growing expansion of critical web application suites required for mission success within the USMC, in addition to its current fourteen application suites serving over 400,000 USMC clients.

AR, Tab 3, USS Corporate Experience Form at I-5 The protester argues that this language demonstrated its experience with supporting 10 times the minimum of 4,000 concurrent users required by the solicitation. Protest at 14. In contrast, the agency explains that the above quoted narrative in USS's proposal failed to expressly meet the requirement because the protester failed to specify whether a minimum of 4,000 users operated "concurrently." AR, Tab 5, Gate Final Evaluation at 9. The agency therefore determined that USS's proposal was unacceptable, since it merely included the total number of users, which is distinctly different from the number of concurrent users. COS/MOL at 15. USS responds that the agency's position is not reasonable given the volume of users identified. For the concern to be valid, it would mean that the agency's system never had a circumstance where more than 10 percent of its users were logged on at the same time. Comments at 12.

Here, we agree with the agency that it should not be required to infer information from an inadequately written proposal or to supply information that the protester elected not to provide. *Technatomy Corp.*, B-411583, Sept. 4, 2015 2015 CPD ¶ 282 at 6. Especially relevant to this question, the solicitation specifically informed offerors that they should assume the Government "has no prior knowledge" of their capabilities and

experience and would only base the evaluation on the information presented in the offerors' proposals. RFP at 28. We find that the agency's evaluation in this regard was consistent with the terms of the solicitation.⁷

In sum, we find that the agency reasonably concluded that the protester's proposal did not meet the RFP's submission requirements. Consequently, we find nothing objectionable about the agency's decision to exclude the protester from further consideration.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁷ In any event, even if we were to conclude that the agency's determination concerning enterprise network services was improper, we would nonetheless conclude that USS's proposal was properly evaluated as unacceptable. In this regard, as explained above, USS's proposal also failed to demonstrate the required element of business intelligence development. The solicitation stated that a proposal would only receive a rating of acceptable if the cumulative experience of its corporate experience references demonstrated performance of all six of the gate criteria services. RFP at 39.