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Decision

Matter of: TechTrend, Inc.

File: B-421773; B-421773.2

Date: September 11, 2023

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Marques O. Peterson, Esq., Meghan D. Doherty, Esq., and Aleksey R. Dabbs, Esq., Pillsbury Winthrop Shaw Pittman LLP, for Dynamo Technologies LLC, the intervenor. Azine Farzami, Esq., U.S. Department of Agriculture, for the agency.

April Y. Shields, Esq., and Christina Sklarew, 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 quotation and source selection decision is denied where the evaluation and source selection decision were reasonable and consistent with the terms of the solicitation, which established an award methodology based on the highest technically rated quotation with a fair and reasonable price.

DECISION

TechTrend, Inc., of Fairfax, Virginia, protests the issuance of a delivery order to Dynamo Technologies LLC of Vienna, Virginia, under request for quotations (RFQ) No. 12760423Q0051, issued by the U.S. Department of Agriculture (USDA), Forest Service, for information technology support services. TechTrend protests various aspects of the agency's evaluation and source selection decision.

We deny the protest.

BACKGROUND

On February 22, 2023, pursuant to Federal Acquisition Regulation (FAR) subpart 8.4, the agency issued the RFQ as a small disadvantaged business set-aside under the General Services Administration's Multiple Award Schedule 54151S (information

technology professional services). Agency Report (AR), Tab 12, RFQ amend. 5 at 4.¹ The RFQ sought a contractor to support the Application Development and Application Services branches of the Forest Service's Chief Information Office, Mission Support Systems directorate. *Id.*; see AR, Tab 8, RFQ amend. 1, attach. 1, Performance Work Statement (PWS). The contractor's responsibilities would include operations and maintenance of deployed applications, agile development of new applications, and support for application architecture and program management. PWS at 3.

The RFQ contemplated the issuance of a hybrid labor-hour and fixed-price delivery order with a 12-month base period of performance, six 12-month option periods, and an optional 6-month extension. RFQ at 4. The RFQ stated that the agency anticipated selecting one vendor "whose entire quote is the most advantageous to the Government, technical and price factors considered," and that "[t]he best value basis for a delivery order award will be determined by the Highest Technically Rated Offeror with Fair and Reasonable Pricing." *Id.* at 28. The RFQ further provided that, in identifying the highest technically rated quotations, the agency would consider the following evaluation factors: technical approach; management approach; key personnel; oral presentation; and adherence to Section 508.² *Id.* Each non-price factor would be evaluated and assigned a confidence rating of significant confidence, moderate confidence, limited confidence, or unacceptable. *Id.* at 29-30.

On or before the March 16 closing date for quotations, the agency received quotations from multiple vendors. After conducting a compliance review, the agency evaluated the 16 quotations that were found compliant and assigned overall ratings of significant confidence to four of the quotations, including those submitted by Dynamo and TechTrend.³ AR, Tab 25, Technical Evaluation Memo. at 3-4. Of note, the evaluators assigned ratings of significant confidence under each of the non-price factors to the quotations submitted by Dynamo and TechTrend, and ranked the quotations based on the evaluation of the non-price factors, with Dynamo ranked first and TechTrend second. *Id.* The evaluators also found that Dynamo's price of \$44,349,986 and TechTrend's price of \$48,969,666 were both fair and reasonable. *Id.* at 4; AR, Tab 26, Award Decision Document at 42, 45.

¹ The agency has amended the RFP five times. All citations are to the Adobe PDF page numbers of the documents referenced in this decision, unless otherwise paginated.

² The RFQ further provided that the technical approach, management approach, and key personnel factors were more important than the other non-price factors; and that all non-price factors combined were significantly more important than price. RFQ at 28. Also, by way of background, section 508 of the Rehabilitation Act of 1973, as amended, generally requires that agencies' electronic and information technology be accessible to people with disabilities. See 29 U.S.C. § 794d.

³ The other quotations are not relevant to this protest and are not further discussed.

The technical evaluation board explained its consensus evaluation and recommendation to rank Dynamo as the “top choice” with the following:

Of the top four vendors that achieved a Significant Confidence rating for non-price factors, Dynamo was the top choice based on the identified strengths and performance of key personnel during the oral presentation. Dynamo has demonstrated an ability to execute on the PWS requirements through their approaches to the task areas and examples of experience at USDA, Forest Service, and other government agencies. Dynamo’s pricing was fair and reasonable in alignment with industry standards. The combination of technical capabilities demonstrated in the non-price evaluation factors, and proposed pricing make Dynamo the best vendor and best value to the government for this contract award.

AR, Tab 25, Technical Evaluation Memo. at 5. The award decision was signed by the contract specialist, contracting officer, and contracting branch chief; they concurred with the evaluation and further concluded that Dynamo’s quotation represented “the overall best value to the Government as it was the highest technically rated with fair and reasonable prices.” AR, Tab 26, Award Decision Document at 49.

The agency issued the delivery order to Dynamo with a not-to-exceed award amount of \$159,919,857. AR, Tab 27, Notice of Award at 2. The agency subsequently notified TechTrend of the source selection decision, and this protest followed.

DISCUSSION

TechTrend challenges various aspects of the agency’s evaluation and source selection decision. As noted above, TechTrend and Dynamo both received the highest possible ratings for each of the non-price factors, and their prices were found to be fair and reasonable. In this context, TechTrend primarily challenges the agency’s evaluation of its quotation and argues that, “had the evaluation been reasonable and in accordance with the RFQ, its non-price rating would have been higher than Dynamo’s.” Comments and Supp. Protest at 5 n.2. In addition, TechTrend complains that the agency “fail[ed] to meaningfully explain and document [its] rationale” for selecting Dynamo over TechTrend. *Id.* at 18.

In its various protest submissions, TechTrend has raised arguments that are in addition to, or variations of, those specifically discussed below. While we do not specifically address all of TechTrend’s arguments, we have fully considered all of them and find that they afford no basis on which to sustain the protest.⁴

⁴ TechTrend initially raised, but subsequently withdrew, its primary argument that “the agency was obligated to award to TechTrend under the RFQ’s terms,” given its adjectival ratings and fair and reasonable price. Protest at 8; Comments and Supp. Protest at 5 n.2. TechTrend also raised, but subsequently withdrew, other arguments
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Evaluation of TechTrend's Quotation

TechTrend challenges various aspects of the agency's evaluation of its quotation under the non-price factors. Under the technical approach factor, TechTrend argues that the agency failed to identify various strengths and unreasonably assessed a weakness in its quotation.⁵

As one example, TechTrend argues that the agency failed to identify various strengths in its quotation that, in its view, "would have tipped the non-price evaluation scales in favor of TechTrend," had they been appropriately considered. Comments and Supp. Protest at 4. For instance, TechTrend argues that the agency failed to consider TechTrend's "numerous years of experience with software license management, with results that have brought substantial benefits to the agency." *Id.* at 4-5; Protest at 11.

For the technical approach factor, the RFQ required vendors to "describe the extent to which the technical approach is feasible, previous experience and detailed description of how performed, and provides demonstrated benefits to the Government in alignment with the requirements listed in the PWS." RFQ at 25. The RFQ further provided that each vendor "should detail its approach for conducting each of the tasks identified in the PWS in the Offeror's response to technical approach and [quality assurance surveillance plan]." *Id.*

The record shows that the evaluators assessed some strengths in TechTrend's quotation for its various examples of experience supporting the Forest Service. AR, Tab 18, Consensus Technical Evaluation Form for TechTrend at 2. In response to the protest, the agency argues that TechTrend's experience specifically with software license management did not merit an additional strength because software license management was not a requirement of the solicitation's performance work statement. Supp. Memorandum of Law (MOL) at 4; Supp. AR, Tab 3, Decl. of Technical Evaluation Board (TEB) Chair at 3. Indeed, the record shows that software license management was referenced only once in the PWS as background information about the agency's Application Services branch. See PWS at 4.

Where, as here, a procurement is conducted pursuant to FAR subpart 8.4, our Office will not reevaluate quotations, nor substitute our judgment for that of the agency; rather, we will review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and

concerning the agency's evaluation of its and Dynamo's quotations. Supp. Comments at 3 n.1.

⁵ A strength was defined as "an aspect of the quotation that *significantly* increases the likelihood of successful performance." AR, Tab 25, Technical Evaluation Memo. at 2. A weakness was defined as "a flaw or an element of the quotation that may have a negative effect on achieving program objectives and/or *significantly* increases the likelihood of unsuccessful performance." *Id.*

regulations. See, e.g., *VariQ Corp.*, B-409114 *et al.*, Jan. 27, 2014, 2014 CPD ¶ 58 at 8. A protester's disagreement with a procuring agency's evaluation judgments, without more, does not establish that the evaluation was unreasonable. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. While an agency's evaluation judgments in a FAR subpart 8.4 procurement must be documented in sufficient detail to show that they are reasonable, for procurements conducted under this subsection of the FAR that require a statement of work, such as this one, section 8.405-2(e) of the FAR designates limited documentation requirements. *Arrington Dixon & Assocs., Inc.*, B-409981, B-409981.2, Oct. 3, 2014, 2014 CPD ¶ 284 at 8.

On this record, we find no basis to question this aspect of the agency's evaluation of TechTrend's quotation. Here, the record shows and the agency explains that experience with software license management was not a requirement of the solicitation. Moreover, TechTrend has not established that this aspect of its proposed technical approach was an advantage that necessarily merited a strength. To the extent TechTrend complains that "the evaluation record fails to even acknowledge this important aspect of TechTrend's approach," Comments and Supp. Protest at 5, we note that an agency is not required to document every single aspect of its evaluation or explain why a quotation did not receive a strength for a particular feature. See, e.g., *22nd Century Techs., Inc.*, B-417336, B-417336.2, May 24, 2019, 2019 CPD ¶ 198 at 5; *InnovaSystems Int'l, LLC*, B-417215 *et al.*, Apr. 3, 2019, 2019 CPD ¶ 159 at 10. In all, TechTrend's disagreement with the agency's assessment, without more, is insufficient to demonstrate that the agency's subjective judgment was unreasonable.

As another example, TechTrend disagrees with the agency's assessment of one weakness in its quotation under the technical approach factor. Comments and Supp. Protest at 6. The record shows that the agency assessed this weakness because TechTrend's "approach to communication could have been stronger." AR, Tab 18, Consensus Evaluation Report for TechTrend at 2; AR, Tab 26, Award Decision Document at 32. TechTrend's disagreement relies on quoting various parts of its quotation to demonstrate that, in its view, it "indeed provided a detailed explanation of its approach to communication." Comments and Supp. Protest at 6-7, *citing* AR, Tab 14.f, TechTrend Technical Vol. at 3-4; see also Protester's Supp. Comments at 14-15. For instance, TechTrend stated in its quotation that, among other things, it "will participate" in [REDACTED], and "will also create [REDACTED]." AR, Tab 14.f, TechTrend Technical Vol. at 4.

In response, the agency notes that the PWS required the contractor to communicate and coordinate with various agency stakeholders and to ensure that all deliverables are submitted "to the Government for review, comment, and acceptance." Supp. MOL at 7, *citing* PWS at 5, 9. The agency explains that TechTrend's quotation, which stated actions the firm intended to take, "does not explain how it would incorporate government stakeholder feedback in its weekly and monthly deliverables." Supp. MOL at 6. In this regard, the agency further explains that this weakness was assessed because TechTrend's "approach to communication could have been stronger in providing demonstrated benefits to the government," and because it "prioritized quantity and

overall volume of deliverables over quality and didn't discuss the need to request and incorporate government feedback into the composition of future deliverables." Supp. Contracting Officer's Statement at 1; Supp. AR, Tab 3, Decl. of TEB Chair at 3.

Again, on this record, we find no basis to question this aspect of the agency's evaluation of TechTrend's quotation. In the agency's view, TechTrend's various statements about actions it would take, without more detail about how it would incorporate government stakeholder feedback, resulted in a weakness given the requirements involving those stakeholders. To the extent TechTrend disagrees with the agency's responses to its protest and complains that "[n]othing else in the record provides any context for this finding" of a weakness in its quotation, Comments and Supp. Protest at 6, we reiterate that a FAR subpart 8.4 procurement has limited documentation requirements and an agency's evaluation judgments must be documented in sufficient detail, as here, to show that they are reasonable. *Arrington Dixon & Assocs., Inc., supra* at 8. We conclude that here, the agency's documentation meets that standard. The agency's explanation is consistent with the record, and TechTrend's disagreement with the agency's assessment, without more, is insufficient to demonstrate that the agency's subjective judgment was unreasonable. In all, TechTrend's various arguments about the evaluation of its quotation are denied.

Source Selection Decision

Finally, TechTrend argues that the agency's source selection decision was flawed as a result of the above-denied evaluation challenges, as well as the agency's alleged failure to meaningfully compare the quotations under the non-price factors. Comments and Supp. Protest at 18-22; Protester's Supp. Comments at 3-14. Notwithstanding TechTrend's complaint that the agency "fail[ed] to meaningfully explain and document [its] rationale" for selecting Dynamo over TechTrend, Comments and Supp. Protest at 18, the record demonstrates that the agency's source selection decision was reasonable and in accordance with the terms of the solicitation that, as noted above, established an award methodology based on the highest technically rated quotation with a fair and reasonable price. RFQ at 28.

As a preliminary matter, TechTrend has not established that the agency was required to conduct a comparative analysis of the quotations under this award methodology.⁶ Our

⁶ In addition to providing for an award methodology based on selecting the highest technically rated quotation with a fair and reasonable price, which does not contemplate a tradeoff between technical and price, the RFQ, as noted above, also indicated that all non-price factors combined were significantly more important than price. See fn. 2 *infra*. This additional language could suggest a tradeoff between non-price and price factors. Given this possible conflict in the RFQ, we find that there is, at best, a patent ambiguity in the solicitation. See, e.g., *One Community Auto, LLC*, B-419311, Dec. 16, 2020, 2020 CPD ¶ 405 at 4 (solicitation was patently ambiguous where some terms appeared to support a lowest-priced, technically acceptable award methodology, while other terms

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Office has recognized that an agency may employ a source selection process that results in award to the highest technically rated offeror without using a tradeoff process. *U.S. Electrodynamics, Inc.*, B-414678, Aug. 1, 2017, 2017 CPD ¶ 252 at 9, *citing Sevatec, Inc. et al.*, B-413559.3 *et al.*, Jan. 11, 2017, 2017 CPD ¶ 3 at 5-6.

Moreover, here, the record shows that the agency evaluated and considered the quotations--including the strengths, weaknesses, and uncertainties assessed under each non-price factor--and reasonably concluded that Dynamo's quotation was the highest technically rated. The evaluators identified Dynamo as the "top choice" based on, among other things, "the identified strengths and performance of key personnel during the oral presentation," and Dynamo's demonstrated "ability to execute on the PWS requirements through their approaches to the task areas and examples of experience at USDA, Forest Service, and other government agencies." AR, Tab 25, Technical Evaluation Memo. at 5. The agency also considered Dynamo's price of \$44,349,986, which it found fair and reasonable. *Id.* at 4; AR, Tab 26, Award Decision Document at 42, 45. As explained in the award decision, the contract specialist, contracting officer, and contracting branch chief concurred with the evaluation and further concluded that Dynamo's quotation represented "the overall best value to the Government as it was the highest technically rated with fair and reasonable prices." AR, Tab 26, Award Decision Document at 49.

On this record, we find the agency's source selection decision consistent with the award methodology established in the solicitation and unobjectionable, and this protest ground is denied. *See, e.g., CACI, Inc.-Federal*, B-420729.2, Mar. 1, 2023, 2023 CPD ¶ 51 at 15 (denying protest where the offerors received the same adjectival non-price ratings and the agency's selection of the awardee as the highest technically rated was reasonable and in accordance with the solicitation's highest technically evaluated proposal with a fair and reasonable price award methodology).

The protest is denied.

Edda Emmanuelli Perez
General Counsel

appeared to support a best-value tradeoff approach). An ambiguity exists where two or more reasonable interpretations of the terms of the solicitation are possible; a patent ambiguity exists where the solicitation contains an obvious or glaring error, while a latent ambiguity is more subtle. *Id.* Our Bid Protest Regulations require that protests of the terms of a solicitation, including protests challenging patent ambiguities, must be filed prior to the time for receipt of quotations. 4 C.F.R. § 21.2(a)(1); *see, e.g., Industries for the Blind, Inc.*, B-409528.35, B-409528.36, Dec. 3, 2014, 2014 CPD ¶ 360 at 6 n.9. In any event, the protester asserts that it "is not arguing that the agency failed to conduct a tradeoff analysis." Supp. Comments at 12.