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Decision

Matter of: Central Care, Inc.

File: B-420959.9; B-420959.13

Date: January 11, 2024

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Kimberly L. Cohen, Esq., and Dima Al-Attar, Esq., Department of Homeland Security, for the agency.
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DIGEST

Protest challenging agency's evaluation of its quotation and resulting elimination from competition is denied where record shows that evaluation was reasonable, and exclusion was consistent with solicitation's mandatory down-select provisions.

DECISION

Central Care, Inc., of Alexandria, Virginia, protests its exclusion from consideration for award under request for quotations (RFQ) No. 70B03C22Q00000081, issued by the Department of Homeland Security, United States Customs and Border Protection (CBP), for medical screening services. The protester challenges the agency's evaluation of its phase I quotation, and the resulting decision to exclude Central Care from phase II of the competition.

We deny the protest.

BACKGROUND

The agency issued the initial RFQ in July 2022, to holders of the Department of Veterans Affairs (VA) Federal Supply Schedule (FSS) Contract 621 I, Professional and Allied Healthcare Staffing Services, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 8.4. Agency Report (AR), Tab 3, RFQ at 1-2;¹ Contracting

¹ Citations are to the Adobe PDF document page numbers. References to the RFQ are to the conformed amendment A13 version found at tab 3 of the agency report.

Officer's Statement (COS) at 1. The RFQ seeks to procure medical screening services for persons in CBP custody at over 80 locations along the southwestern United States border. RFQ at 60. The solicitation contemplates the issuance of a single hybrid time-and-materials and fixed-price task order, and anticipates a potential 5-year period of performance, inclusive of options. *Id.* at 2, 30-31. The task order's estimated value is over \$[DELETED]. COS at 1.

The RFQ provides for a best-value tradeoff source selection process, using the following five evaluation factors, in descending order of importance: (1) staffing plan/approach; (2) corporate experience; (3) technical approach and capabilities; (4) past performance; and (5) price. RFQ at 149-50. The four non-price factors, when combined, are significantly more important than price. *Id.* at 150. The agency would evaluate each of the non-price factors using an overall confidence rating of either high confidence, some confidence, or low confidence.² *Id.* These confidence ratings consider the extent to which a vendor "understands the requirement and will be successful in performing the task order." *Id.* For price, quotations would be evaluated for reasonableness. *Id.* at 149.

As amended, the solicitation establishes a two-phase evaluation process. *Id.* at 4. During phase I, vendors were to submit--and the agency would only evaluate--quotations addressing the staffing plan/approach and corporate experience evaluation factors. *Id.* Following evaluation of phase I quotations, the agency would conduct a "mandatory down-select" such that only "the most highly rated" vendors would be allowed to proceed with the submission of phase II quotations. *Id.* Vendors that were not among the most highly rated would be eliminated from the competition. *Id.*

Nine vendors, including the protester, timely submitted phase I quotations by the September 5 due date for receipt of quotations. RFQ at 2; AR, Tab 11, Source Selection Decision Memorandum (SSDM) at 2. The agency's technical evaluation team (TET) thereafter reviewed and evaluated those phase I quotations. AR, Tab 11, SSDM at 5. As part of this process, the TET prepared written reports, documenting the evaluation of each quotation, as well a summary consensus confidence rating report. AR, Tab 9, TET Report at 1; AR, Tab 10, Summary TET Report at 1.

The source selection authority (SSA) thereafter reviewed the TET's phase I evaluations, and conducted an independent assessment of the quotations to determine the most highly rated vendors that would be invited to phase II of the competition. AR, Tab 11, SSDM at 6. Ultimately, the SSA identified [DELETED] vendors as having the most highly rated quotations. AR, Tab 2, SSA Statement of Facts at 2. The SSA concluded that the remaining [DELETED] vendors would be eliminated from consideration for award. *Id.*

² For past performance, a neutral rating was also available. RFQ at 149.

On October 5, the agency notified Central Care that its quotation was not among the most highly rated, and consequently it would not be progressing on to phase II. AR, Tab 12, Exclusion Notice at 1. This protest followed.

DISCUSSION

Central Care challenges the agency's evaluation of its phase I quotation and the resulting decision to eliminate the protester from phase II of the competition. Protest at 5-8. Specifically, Central Care contests the low confidence ratings it received under both the staffing plan/approach and corporate experience factors. *Id.* Had the agency reasonably evaluated its quotation, Central Care argues, the firm would have continued to phase II. *Id.* at 8.

Staffing Plan/Approach

Central Care's protest challenges all five negative evaluation findings the agency assessed its phase I quotation under the staffing plan/approach factor, and the resulting low confidence rating under the factor. Protest at 5-8. The agency responds that it reasonably evaluated the protester's quotation and properly assigned the quotation a rating of low confidence. According to the agency, the evaluation findings decreased the agency's confidence that the protester understood the requirement and would be successful in performing the task order. Memorandum of Law (MOL) at 8-13.

The evaluation of a vendor's quotation is a matter within the agency's discretion. *Applied Insight, LLC*, B-421221, B-421221.3, Jan. 20, 2023, 2023 CPD ¶ 33 at 6. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the solicitation's terms and applicable procurement laws and regulations. *OPTIMUS Corp.*, B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *Technology and Telecomms. Consultants, Inc.*, B-413301, B-413301.2, Sept. 28, 2016, 2016 CPD ¶ 276 at 4.

Under the staffing plan/approach factor, the RFQ instructed vendors to describe their approach and capabilities to meet the government's requirements in the statement of work (SOW). RFQ at 145. With respect to Central Care's quotation, the evaluators identified several areas that lowered the agency's expectation of successful task order performance, finding that the quotation's "general" approach failed to "demonstrate sufficient detail or applicability of the approach to accomplish the required effort." AR, Tab 9, TET Report at 4. Based on these areas of decreased confidence, the TET assigned an overall low confidence rating to Central Care's staffing plan/approach. *Id.* The SSA agreed with the TET's rating, while also summarizing the quotation's "notable aspects" that lowered the agency's confidence. AR, Tab 11, SSDM at 6-7.

Although we do not address each of the individual challenges under this factor, we have reviewed them all and concluded that none provides a basis to sustain the protest. Below, we address two representative examples of the protester's challenges to the agency's evaluation findings.

Staffing Plan

First, Central Care challenges the agency's assessed concern that its quotation failed to provide a staffing plan for all work sites. Protest at 5-6. The protester argues that the agency's finding was irrational because, to the extent its quotation discussed staffing for the three states (Texas, California, and Arizona) with the most medical units (MUs), it did so "as examples, not as a limitation." *Id.* at 5.

Under the staffing plan/approach factor, the RFQ required vendors to "[i]nclude a proposed staffing plan that meets the requirements of the SOW." RFQ at 145. Central Care's quotation discussed how the firm intended to use a staffing committee for "the development and oversight of the staffing plan," and included an "excerpt of the staffing mix of an MU in each of the three States – Texas, California and Arizona." AR, Tab 7, Central Care Quotation at 2-3. The TET determined that although Central Care's quotation had provided an approach for creating a staffing plan using a committee and an "exemplar staffing matrix," the firm failed to "provide any indication of an actual staffing plan to demonstrate their understanding of the quantity and labor categories of staff necessary to perform this requirement." AR, Tab 9, TET Report at 1. The SSA agreed with the TET's finding of decreased confidence, and similarly concluded that Central Care's quotation "did not provide sufficient detail or applicability of the approach to accomplish the required effort," as it "did not provide an actual staffing plan for all sites." AR, Tab 11, SSDM at 7.

On this record, we find nothing objectionable with the agency's determination that Central Care's staffing plan lowered the agency's confidence in the protester's ability to successfully perform the requirements. Where the RFQ required vendors to include a staffing plan that satisfied the SOW's requirements, the protester's quotation simply described the process of using a committee to develop a staffing plan and provided only excerpts--not a complete plan--of a staffing matrix of an MU for three states. RFQ at 145; AR, Tab 7, Central Care Quotation at 2-3. By contrast, the RFQ lists a total of 92 sites across five states: Texas, California, Arizona, Florida, and New Mexico. RFQ at 152-154. By not providing an actual staffing plan for all sites, the agency reasonably concluded that the protester failed to demonstrate an adequate understanding of the total staffing necessary to perform the solicitation's entire effort. Central Care's disagreement with the agency's conclusion is not sufficient to render the evaluation unreasonable.³ *Exceed, LLC*, B-419010, Nov. 17, 2020, 2020 CPD ¶ 368 at 5

³ To the extent Central Care intended its discussion of only three states to serve merely as "examples," it is the vendor's responsibility to submit a well-written quotation, with adequately detailed information that clearly demonstrates compliance with the

(continued...)

(concluding agency reasonably exercised its discretion in determining that the protester failed to provide sufficient detail explaining its staffing process).

Transition-In Plan

As a second example, Central Care challenges the agency's finding that Central Care's quotation failed to explain how the protester intended to recruit, hire, and train the necessary personnel during the solicitation's transition-in period. Protest at 6-7. According to the protester, the agency's finding was contradicted by the contents of its quotation. *Id.*

The RFQ directed vendors to describe how they intended to "recruit, hire, and train the volume of qualified personnel required to meet the SOW staffing requirements within the transition-in period." RFQ at 145. The SOW established a set timeline for this transition, requiring the successful contractor to "accept transfer of 100 [percent] responsibility at a minimum of 30 days but not-to-exceed 60 days" after the agency's acceptance of the contractor's transition-in plan. *Id.* at 88-89. Central Care's quotation stated that "[u]nderstanding how to attract, recruit and train staff for positions in the MUs across the three States (CA, TX, and AZ) during the transition-in period needs to discriminate and offer solutions that address the needs of the diversified workforce." AR, Tab 7, Central Care Quotation at 4.

The evaluators were concerned that even though the quotation's reference to three states was likely "used as an exemplar," Central Care did not explicitly clarify that its discussion of this portion of the total effort was indeed intended to serve only as an example. AR, Tab 9, TET Report at 2. The TET found that this ambiguity decreased the agency's confidence in Central Care's quotation because Central Care did not "understand that the full operational mission requirements include a total of 5 states as outlined in the SOW." *Id.* In addition, the TET found that Central Care "did not address whether they could or how they would accomplish transition" within the SOW's established 30 to 60-day timeframe. *Id.* The SSA agreed with the TET's findings, concluding that Central Care demonstrated "a lack of understanding of the requirement, which includes more than those three states" mentioned in its quotation, and "failed to

solicitation requirements; the vendor runs the risk that the agency will unfavorably evaluate its quotation where it fails to do so. *XL Assocs., Inc. d/b/a XLA*, B-417426.3, Jan. 16, 2020, 2020 CPD ¶ 33 at 6. Confusingly, Central Care's quotation repeatedly refers to "the three States," rather than clarifying that the included matrix excerpt represented an example of three of the *five* total states covered under the solicitation. AR, Tab 7, Central Care Quotation at 3. Regardless, even if Central Care had provided staffing mix excerpts for all five states, we have no basis to question the agency's finding that Central Care's failure to provide full staffing plans--vice excerpts--was inconsistent with the RFQ's requirement, thereby lowering the agency's confidence. *Octo Consulting Grp., Inc.*, B-421182, B-421182.2, Jan. 17, 2023, 2023 CPD ¶ 27 at 8 (denying challenge to decreased confidence where finding was reasonably assessed).

show how they would accomplish staffing within the transition-in timeframe.” AR, Tab 11, SSDM at 7.

While Central Care reproduces its quotation’s contents at length to argue that the agency’s evaluation was incorrect, we find unavailing the protester’s challenge to the evaluation in this regard. Protest at 6-7. Our review of the record confirms that Central Care’s quotation did not explain how the firm would hire the over [DELETED] estimated staff by the end of the 60-day transition period. AR, Tab 7, Central Care Quotation at 3-4. Although the quotation generally discussed “dedicated” recruiters and job advertisements, Central Care did not explain how those methods would recruit the necessary personnel to fulfill this effort across all five states. *Id.* Instead, Central Care’s quotation ambiguously referenced staffing medical units only “across the three States (CA, TX, and AZ) during the transition-in period.” *Id.* at 4. This reasonably concerned the agency where the solicited effort also includes sites in Florida and New Mexico. RFQ at 152-154.

Nor for that matter, did the protester’s quotation reference the solicitation’s 60-day transition deadline, or explain how the firm intended to hire and train sufficient staff by that deadline. AR, Tab 7, Central Care Quotation at 3-4. Central Care has consequently failed to show that the agency’s evaluation was unreasonable. *eTech Sols., LLC, B-421687 et al.*, Aug. 23, 2023, 2023 CPD ¶ 205 at 10 (concluding agency reasonably assessed negative aspect for protester’s use of “‘generic industry buzz words’ and failure to provide details on specific processes being proposed.”).

In sum, Central Care’s various arguments related to the agency’s evaluation of its quotation under the staffing plan/approach factor amount to nothing more than disagreement with that evaluation, which is insufficient to establish that the agency acted unreasonably. *SRA Int’l, Inc.; NTT DATA Servs. Fed. Gov’t, Inc.*, B-413220.4 *et al.*, May 19, 2017, 2017 CPD ¶ 173 at 10. Accordingly, we deny these challenges.

Corporate Experience

Central Care also challenges the agency’s evaluation of its phase I quotation under the corporate experience factor. Protest at 8. Specifically, the protester argues that the agency’s assessment of a low confidence rating was irrational, considering the firm’s quoted experience “dwarfs this procurement in terms of scope of work, range of requirements, general scope and staffing.” *Id.* The agency responds that it reasonably concluded that Central Care’s experience submissions did not demonstrate a scope of work similar to the solicited effort. MOL at 14-17.

An agency has broad discretion when evaluating a vendor’s experience to determine whether a particular contract is relevant to the work procured under a solicitation. *Criterion Sys., Inc.*, B-416553, B-416553.2, Oct. 2, 2018, 2018 CPD ¶ 345 at 6. Where, as here, an agency conducts a competition under a solicitation issued to FSS vendors pursuant to FAR subpart 8.4, we will review the record only to ensure that the agency’s evaluation of experience was reasonable and consistent with the solicitation’s terms and

applicable laws and regulations. *Alethix LLC*, B-420920.3, B-420920.4, Dec. 15, 2022, 2022 CPD ¶ 316 at 6.

Under the corporate experience factor, vendors were to provide one to three examples of relevant experience with prior contracts “that are similar in terms of size, scope, and complexity to the SOW.” RFQ at 146. The solicitation cautioned vendors that they “must provide sufficient information to permit the Government to determine relevancy.” *Id.* Central Care submitted three corporate experience references. AR, Tab 7, Central Care Quotation at 7-10. Based on the experience examples submitted by Central Care, the TET concluded it had low confidence “that [Central Care] understands the requirement and will be successful in performing the task order.” AR, Tab 9, TET Report at 6. The SSA concurred, finding that Central Care’s experience examples did not “demonstrate relevancy of scope or complexity” because they did not have the “same scope of work and broad range of requirements” as the solicited effort. AR, Tab 11, SSDM at 11-12.

We have reviewed the record and find reasonable the agency’s evaluation of the protester’s corporate experience. For instance, Central Care submitted its Medical Q Services contract as an example of its experience. AR, Tab 7, Central Care Quotation at 7-8. The TET found that Central Care failed to demonstrate that this effort was relevant in terms of scope because the description of the work appeared “limited only to the categories of frontline medical staff.” AR, Tab 9, TET Report at 5. By contrast, the solicited effort requires the contractor to not only provide frontline medical staff, but also medical quality management and patient safety risk management personnel. RFQ at 60. In addition, the evaluators found that the contract’s \$241 million value and staffing of 944 full-time equivalents (FTEs) were not relevant in terms of size, adding that the quotation further lacked any details to demonstrate the example’s relevancy in terms of complexity. AR, Tab 9, TET Report at 5.

Central Care disputes that its Medical Q Services effort only involved frontline staff, arguing that the agency misread or misunderstood its quotation. Comments at 4-5. The record reflects otherwise. Central Care’s quotation stated that for its Medical Q Services contract, “[t]he frontline medical staff provided included Physicians, Nurses, Dental Professionals and Ancillary Personnel,” and described how “some frontline healthcare workers” needed to be replaced during the COVID-19 pandemic. AR, Tab 7, Central Care Quotation at 7-8. Although, Central Care now maintains the effort also included “back office staff,” this information was not presented in its quotation. As discussed above, it is the vendor’s responsibility to submit a well-written quotation, with adequately detailed information, which clearly demonstrates compliance with the solicitation’s requirements. *XL Assocs., Inc.*, *supra* at 6. To the extent Central Care now attempts to demonstrate its corporate experience more clearly through its protest, our review is limited to the protester’s quotation, as submitted. *Alethix LLC*, *supra* at 6.

Moreover, while Central Care argues that the solicitation did not require any minimum value or number of FTEs to demonstrate relevancy, the protester has failed to show that the agency unreasonably concluded its Medical Q Services effort lacked relevancy in

terms of size. Comments at 5. Where a solicitation does not expressly define terms such as scope, magnitude, or complexity, agencies are afforded great discretion to determine the relevance of a vendor's corporate experience. *CW Gov't Travel, Inc.*, B-419193.4 *et al.*, Apr. 15, 2021, 2021 CPD ¶ 188 at 8. Here, the current solicited effort has an estimated value of over \$[DELETED], involving over [DELETED] estimated medical personnel. COS at 1; RFQ at 60-63, 152-54. As this exceeds the \$241 million value and 944 FTEs involved in the Medical Q Services contract, we have no basis to object to the agency's determination that the experience reference lacked relevancy in terms of size. AR, Tab 7, Central Care Quotation at 7.

Overall, we find nothing objectionable with the SSA's determination that Central Care's submitted experience failed to "demonstrate relevancy of scope or complexity," or with the assignment of a low confidence rating under this factor. AR, Tab 11, SSDM at 12. The protester's disagreement with the agency's evaluation judgments, without more, does not establish that the evaluation was unreasonable. *Creoal Consulting, LLC*, B-419460, B-419460.2, Mar. 4, 2021, 2021 CPD ¶ 148 at 7. We deny these challenges.

Elimination From Consideration

Central Care argues that the flaws in the agency's evaluation of its phase I quotation prevented the firm from competing in phase II and from eventual consideration for the task order award. Protest at 8. Where, as here, an agency conducts an FSS procurement pursuant to FAR subpart 8.4 and excludes a vendor from further consideration for award, we view the agency's decision as comparable to an exclusion of a proposal from the competitive range under FAR part 15. *The Dixon Grp., Inc.*, B-406201, B-406201.2, Mar. 9, 2012, 2012 CPD ¶ 150 at 6. The determination of whether a quotation is in the competitive range is a matter principally within the procuring agency's discretion, and our Office will review an agency's exclusion of a quotation for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. *Trademasters Serv., Inc.*, B-418522.2 *et al.*, Apr. 2, 2021, 2021 CPD ¶ 161 at 8.

Here, the RFQ provided that only the "most highly rated" phase I vendors would be invited to proceed with the submission of phase II quotations, and those vendors that were not amongst the most highly rated would be eliminated from the competition. RFQ at 4. Our review of the record confirms that, consistent with the terms of the RFQ, the agency reasonably determined that Central Care was not among the most highly rated vendors and consequently did not have a realistic prospect of award. AR, Tab 12, Exclusion Notice at 1. As explained above, the agency reasonably evaluated the protester's phase I quotation, which resulted in the assignment of a low confidence rating under the staffing plan/approach factor and the corporate experience factor. The RFQ notified vendors the down-select process was mandatory and quotations "that are not among the most highly rated will **not** move forward to the next Phase." RFQ at 4. Where Central Care received the lowest possible adjectival ratings under both phase I evaluation factors, and the record reflects that other vendors received higher ratings, we find the agency's decision to exclude the protester from phase II of the competition to be

reasonable and consistent with the solicitation's terms. AR, Tab 11, SSDM at 14; *Java Prods., Inc.*, B-416600, Oct. 29, 2018, 2019 CPD ¶ 40 at 5.

The protest is denied.

Edda Emmanuelli Perez
General Counsel