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Decision

Matter of: Chevo Consulting, LLC

File: B-422342.2

Date: August 30, 2024

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Mary G. Curcio, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of protester's technical proposal is denied where evaluation was reasonable and consistent with the solicitation.

DECISION

Chevo Consulting, LLC, of Rockville, Maryland, protests the issuance of a task order to J&M Global Solutions, LLC, of Alexandria, Virginia, under task order request for proposals (TORP) No. 70FA6023Q00000004, issued by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), for program management services. Chevo argues that the agency unreasonably evaluated Chevo's proposal under multiple evaluation factors.

We deny the protest.

BACKGROUND

FEMA issued the TORP on April 27, 2023, pursuant to Federal Acquisition Regulation subpart 16.5, to vendors holding indefinite-delivery, indefinite-quantity contracts under the General Services Administration's One Acquisition Solution for Integrated Services

Small Business Pool 1¹. Agency Report (AR), Tab A.1.1, TORP at 1, 2. The solicitation contemplated the issuance of a task order for a 12-month base period and four 12-month option periods to provide program management support services on behalf of FEMA’s Federal Insurance and Mitigation Administration. *Id.* at 2.

The solicitation provided for award on a best-value tradeoff basis considering the following factors: corporate experience²; proposed performance work statement and quality assurance surveillance plan (PWS and QASP); oral presentation-technical approach; staffing plan and key personnel; past performance; and price. *Id.* at 87. The technical factors were listed in descending order of importance and all non-price factors combined were significantly more important than price. *Id.*

The agency assigned the non-price factors a confidence rating of high, some, or low, based on assessed areas of the proposal that increased or decreased the agency’s confidence in the offerors ability to successfully perform the task order.³ TORP at 90-91. The agency evaluated proposals in two phases. TORP at 76. During phase 1, the agency evaluated technical proposals under the corporate experience factor. *Id.* at 76. Following the phase 1 evaluation, the agency notified offerors whether the agency considered them to be the most highly rated and viable competitors for award.⁴ During phase 2, five offerors submitted proposals, including Chevo and J&M. The agency evaluated phase 2 proposals under the PWS and QASP, oral presentation, staffing plan/key personnel, past performance, and price factors. *Id.*

The proposals of Chevo and J&M were rated as follows:

Offeror	Corporate Experience	PWS and QASP	Oral Presentation	Staffing Plan/Key Personnel	Past Performance	Price
J&M	High	Some	High	High	Some	\$92,396,264
Chevo	Some	Some	Low	Low	Some	\$73,140,083

¹ GAO has jurisdiction over this protest since it challenges the award of a task order issued by a civilian agency that is valued at more than \$10 million. See Federal Acquisition Regulation 16.505(a)(10).

² With respect to corporate experience, offerors were required to address five questions about their experience in the following areas: capability building and measurement; change management; program management support; acquisition program support; and contract complexity/efficiencies. TORP at 80.

³ Past performance could also be rated neutral if an offeror had no past performance.

⁴ Offerors that were not notified they were among the most highly rated were permitted to submit phase 2 proposals but were discouraged from doing so. TORP at 76.

AR, Tab C.3, Corrective Action Award (CAA) Memo at 1. The agency conducted a best-value tradeoff and selected J&M for award. This protest followed.⁵

DISCUSSION

For each evaluation factor, with the exception of the oral presentation factor, Chevo challenges the agency's findings that various aspects of Chevo's proposal decreased the agency's confidence in Chevo's ability to successfully perform the contract. We have reviewed all Chevo's allegations and find no basis to sustain the protest. We discuss several examples below.⁶

The evaluation of proposals is a matter within the discretion of the contracting agency. An offeror's disagreement with an agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. In reviewing an agency's evaluation, we will not substitute our judgment for that of the agency, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and with procurement statutes and regulations. *Perspecta Enter. Sols., LLC*, B-418533.2, B-418533.3, Jun. 17, 2020, 2020 CPD ¶ 213 at 16.

Corporate Experience Factor

The agency rated Chevo as some confidence under the corporate experience factor. As noted above, the solicitation required offerors to address five questions related to corporate experience. In submitting their corporate experience question responses, the solicitation instructed offerors that they "shall" explain, among other things, how and why the experience is relevant and the anticipated benefits the experience will bring to the government. TORP at 79. The solicitation advised that the government would use the responses to the questions to assess its confidence that an offeror can successfully meet or exceed the objectives of the contract considering the relevance of the corporate experience and the benefits or risks to the government. *Id.* at 87. The solicitation also advised that the experience of the prime offeror would be given greater consideration compared to that of proposed subcontractors. *Id.* at 78.

⁵ The agency initially issued the task order to J&M. Chevo protested and the agency took corrective action which included re-evaluating proposals and making a new best-value tradeoff. As a result, we dismissed the protest as academic. *Chevo Consulting, LLC*, B-422342, Feb. 29, 2024 (unpublished decision). This protest concerns the task order issued to J&M following corrective action.

⁶ Chevo also protested that the agency failed to consider that J&M had an organizational conflict of interest. Chevo withdrew this basis of protest. Comments at 1, n.1.

Chevo challenges multiple findings of decreased confidence for its proposal under the corporate experience factor. For example, under question 1, capability building and measurement, the solicitation instructed offerors to describe their corporate experience building the capability of an organization and/or stakeholder group, particularly program management and planning, programming, budgeting, execution and evaluation (PPBE&E) capabilities, including the use of evidence-based assessments. TORP at 80. Chevo submitted two examples of its experience for question 1, a PPBE&E task order it performed for the Cybersecurity and Infrastructure Agency (CISA), and a risk management directorate (RMD) contract that its subcontractor Deloitte, the current incumbent, performed for FEMA. AR, Tab B.1, Chevo Phase 1 Proposal.

The agency found several areas where Chevo's response to question 1 decreased its confidence that Chevo could successfully perform. When reviewing the CISA task order, the agency documented a decreased confidence finding because the task order was primarily focused on automation, tools, and evaluation, and Chevo did not demonstrate how its work on the task order of centralizing data and documentation into a SharePoint repository would provide a benefit to FEMA or meet the objectives of the task order. In addition, it was not clear whether Chevo set measures or simply automated measurement when performing the CISA task order. The agency found that the lack of clearly demonstrated relevant experience significantly decreased confidence that Chevo could accomplish the objectives of the task order. AR, Tab C.3, CAA Memo at 14.

Chevo argues that even if the CISA example raised questions about Chevo's ability to accomplish the task order objectives, the RMD contract should have increased the agency's confidence in Chevo's ability to perform. In this regard, Chevo notes that the agency found increased confidence in the RMD contract performed by Deloitte that positively impacted FEMA's goals and objectives. *Id.* at 11-12. According to Chevo, since Deloitte's performance on the RMD contract increased the agency's confidence that Chevo could meet the task order objectives, the agency was required to rate Chevo high confidence under question 1. Supp. Comments at 3. Chevo asserts that the RFP allowed the agency only to determine whether Chevo demonstrated that it could meet FEMA's goals and objectives, and the agency's evaluation of the experience on the RMD contract confirmed that Chevo could meet the goals and objectives. Comments at 3.

Based on our review of the record, Chevo's arguments represent a misunderstanding of the evaluation process. First, offerors under the corporate experience factor received a confidence rating as a whole; the offerors' responses to the individual questions under this factor did not. Thus, even setting aside consideration of Chevo's experience with the CISA contract, as Chevo's argument suggests, that does not mean Chevo would be rated high confidence for the corporate experience factor. Second, the agency considered the information provided for each experience example submitted by the offerors for question 1 and determined whether the example increased or decreased the agency's confidence in the offeror's ability to meet the task order objectives. The solicitation also specified that the agency would give greater consideration to the

experience of the prime offeror than the experience of its subcontractors. We do not find it unreasonable that the agency considered information provided by one experience example of a subcontractor to increase its confidence in the offeror's ability to perform (the RMD contract) and another example to decrease its confidence in the offeror's ability to perform (the CISA task order) where the example demonstrated a lack of relevant experience of Chevo as the prime offeror.⁷ Accordingly, since the protester does not dispute the agency's conclusion that the CISA example decreased its confidence that Chevo could accomplish the task order objectives, we have no basis to question the agency's evaluation of Chevo's proposal under question 1.

Under question 5, contract complexity/efficiencies, offerors were instructed to describe their corporate experience, "managing contracts that are large and complex, span large geographies, support multiple programs, and have many work streams," and to describe how this experience could be leveraged to meet or exceed the agency's objectives. TORP at 80. Chevo submitted two examples to demonstrate its experience related to complexity and efficiencies: a grants management and technical assistance contract performed by Chevo for FEMA, and a mission support enterprise blanket purchase agreement (BPA) performed by Deloitte for FEMA.

The agency found that it had decreased confidence in Chevo's ability to meet the objectives of the task order with respect to the grants management contract because that contract did not address experience managing large and complex contracts with many work streams across large geographies. AR, Tab C.3, CAA memo at 16. Chevo asserts that the agency also found increased confidence in its ability to perform because the mission support enterprise BPA performed by Deloitte demonstrated experience working across large geographies while managing multiple workstreams. According to Chevo, since one project, which was performed by its proposed subcontractor, demonstrated relevant experience, the agency was obligated to find that Chevo had adequate experience when it rated Chevo under the corporate experience factor. As with question 1, the agency reviewed the experience that Chevo, as the prime offeror, would bring to the task order based on each example it submitted to demonstrate its experience. The solicitation made clear that greater consideration would be given to the experience of the prime offeror than that of a proposed subcontractor. On this record, we conclude that the agency reasonably looked at how each project example increased or decreased its confidence and considered all its findings in assigning the overall experience rating. Accordingly, we find the agency's evaluation under the corporate experience factor to be reasonable.

⁷ Nor would it be unreasonable for the agency to find that certain aspects of the same example increased its confidence in the offeror's ability to perform and other aspects decreased its confidence in the offeror's ability to perform.

Staffing Plan and Key Personnel Factor

Under the staffing plan and key personnel factor offerors were to describe the processes and procedures they would use to identify, recruit, hire, screen, and retain key and non-key personnel. Offerors were further instructed to discuss how their approach would provide efficient and effective staffing to meet the magnitude and complexity of the task order requirements. TORP at 83-84.

Chevo's proposal received a rating of low confidence under the staffing plan and key personnel factor. In evaluating Chevo's proposal under this factor, the agency found increased confidence because Chevo's reliance on incumbent personnel would provide a one-time benefit in that it would create staffing efficiencies by reducing onboarding time during the phase-in period. AR, Tab C.3, CAA Memo at 26. The agency also, however, found decreased confidence in the proposal because: (1) the proposed staffing relied heavily on retaining incumbent staff which did not provide any benefit compared to the status quo; (2) the use of [DELETED] did not demonstrate a clear and effective process for coordination between team members because to be effective the alignment of contractor staffing and priorities must be executed at the key personnel level; and (3) the proposed non-information technology (IT) program manager did not meet the experience requirement (10+ years in a management-level position working on a project portfolio worth at least \$100M annually). *Id.* at 27.

Chevo protests that the agency unreasonably rated its proposal low confidence for the staffing and key personnel factor. Chevo argues that it proposed to retain [DELETED] of the current incumbent staff which was [DELETED] of its proposed staffing. Chevo notes that on several occasions in evaluating its proposal the agency acknowledged its confidence in Chevo's use of Deloitte as a subcontractor. Chevo reasons that since FEMA acknowledged the benefit of having Deloitte on its team, it was unreasonable for the agency to assign Chevo's proposal low confidence for staffing and key personnel given that Chevo proposed to keep a significant number of the incumbent staff. Chevo also challenges the agency's assignment of decreased confidence to its proposal because its proposed use of [DELETED] in performance of the contract would hinder communication. Chevo argues that the finding is not warranted because the agency failed to reasonably consider that only key personnel would communicate with the contracting officer's representative.

Based on our review of the record, we find the agency's evaluation of Chevo's proposal under the staffing and key personnel factor was reasonable. First, Chevo's reliance on incumbent personnel does not in itself warrant a higher confidence rating. The agency recognized that the use of incumbent staff during the phase-in period was a benefit. The agency also found, however, that this was a one-time benefit and that Chevo's overreliance on the use of incumbent staff during the rest of performance did not provide any specific benefit compared to the status quo. Chevo has not explained why this finding was unreasonable. In this regard, "a protester's apparent belief that its incumbent status entitles it to higher ratings provides no basis for finding an evaluation unreasonable, as there generally is no requirement that an offeror be given additional

credit for its status as an incumbent, or that the agency assign or reserve the highest rating for the incumbent contractor.” *Three Cities Management, LLC*, B-420812, B-420812.2, Aug. 31, 2022, 2022 CPD ¶ 231 at 5-6.

Second, with respect to [DELETED], the agency’s concern was not that the [DELETED], as opposed to key personnel, would communicate with the contracting officer’s representative. The agency’s concern was that the [DELETED] added an unnecessary level of management that would hinder communication among team members and create confusion regarding duties. Memorandum of Law at 12; see also AR, Tab C.3, CAA Memo at 27. While Chevo disagrees that the [DELETED] are not useful, its disagreement does not provide a basis to find that the agency unreasonably evaluated Chevo’s proposal. See *ACS State Healthcare, et al.*, B-292981, *et al.*, Jan. 9, 2004, 2004 CPD ¶ 57 at 18 (protester’s disagreement with the agency’s judgment does not establish that an evaluation was unreasonable).

Given the totality of the findings, we have no basis to conclude that the agency unreasonably assigned Chevo’s proposal low confidence under the staffing and key personnel factor.⁸

Past Performance Factor

Under the past performance factor offerors were required to provide a self-assessment of their past performance for three of the projects that were discussed under the corporate experience factor, and to have the point of contact for the projects submit a past performance questionnaire. The solicitation provided that the agency would assess whether the offeror could successfully perform the task order requirements considering: (1) quality of services provided, (2) cost control, (3) schedule/timeliness, (4) management, and (5) business relations/customer service. Offerors were further informed that in evaluating past performance the agency would consider input from references and all other information available to the government and the contracting officer. The solicitation noted that greater consideration would be given to projects that are more relevant compared to the work required under the TORP or verified. TORP at 84-85.

Chevo submitted self-assessment information for three projects: a DHS security program management operations support services contract performed

⁸ As noted above, the agency also found that Chevo’s proposed non-IT program manager did not meet the management experience requirement. Chevo was advised in its May 24 debriefing that the agency found decreased confidence in its proposal under the staffing and key personnel factor because the non-IT program manager did not meet the experience requirement. Chevo did not protest this finding until it submitted its comments on the agency report on July 8. This basis of protest is untimely as it was not filed within 10 days after Chevo learned of it. See 4 C.F.R. § 21.2 (a)(2).

by Chevo; a program support services task order Chevo performed for CISA; and a FEMA RMD BPA that Deloitte performed. AR, Tab B.5, Chevo Phase 2 Proposal at 30-38. The agency also received past performance questionnaires for these projects.

The agency assigned a rating of some confidence to Chevo's proposal for the past performance factor. In evaluating Chevo's past performance, the agency found increased confidence because Chevo and its subcontractor Deloitte received all very good or exceptional ratings on the questionnaires. AR, Tab C.3, CAA Memo at 30. The agency found decreased confidence because Chevo proposed an employee performing on the current Deloitte RMD program support contract to work as the non-IT senior manager on the task order to be issued. The contracting officer's representative for the current Deloitte RMD program support contract had several issues with the proposed non-IT senior manager's performance on the RMD contract. Specifically, the individual struggled to keep her government furnished equipment (GFE) online, so the system was not updated. AR, Tab C.2, Phase 2 Evaluation at 8. This lack of GFE and a FEMA email account limited the program documentation that could be sent to her. *Id.* The contracting officer's representative noted that FEMA learned to work around this individual and she was tasked with working closely with one supervisor to help mitigate the impact of any risk created by her performance. *Id.* The agency also found decreased confidence in Chevo's past performance because the examples provided were only somewhat relevant, as there was a lack of a disaster context for two of the three past performance references. AR, Tab C.3, CAA Memo at 30.; Resp. to Past Performance Question at 1.

Chevo protests the rating of some confidence its proposal received for the past performance factor. Because its team includes Deloitte, the incumbent contractor, and both its and Deloitte's past performance were rated above average, Chevo argues it was unreasonable to assign the proposal only some confidence. Chevo further asserts that the evaluation memo did not discuss the relevance of the projects in detail or the five factors that were to be considered in evaluating past performance as outlined in the solicitation. Chevo further complains that the agency's concern with one non-key person was unreasonable given that she did not impact overall performance, as the agency itself recognized.

Based on this record, we find that the evaluation was reasonable. First, Chevo was not entitled to a rating higher than some confidence simply because the incumbent Deloitte is on its team or because it and Deloitte were rated highly for past performance. In this regard, quality of performance was only one factor in the evaluation. Moreover, concerning the quality of performance, the contracting officer's representative from Deloitte's RMD contract noted his experience with the non-IT senior manager not keeping her GFE online, and the problems this caused. While the issue with her performance did get resolved, and did not present substantial risk, the agency explains that it had to work around this individual and had her work closely with a supervisor to mitigate the risk. AR, Tab C.2, Phase 2 Evaluation at 8. The agency could reasonably

consider that the issue with this employee reduced its confidence in Chevo's potential performance.

Second, the five factors that Chevo asserts the agency did not consider were primarily the factors used in the questionnaire to rate the offerors' past performance. AR, Tab A.1.5, Past Performance Questionnaire. While the agency did not specifically discuss each in its past performance assessment, the agency noted that Chevo received all exceptional or very good ratings. AR, Tab C.3, CAA Memo at 30. The agency also considered the relevance of the three projects Chevo discussed, as required by the solicitation. The agency found that of the three examples provided, only one, the RMD contract performed by Deloitte, had a disaster context. *Id.* Resp. to Past Performance Question at 1. The other two contracts were considered somewhat relevant. AR, Tab C.3, CAA Memo at 30. As Chevo acknowledges, the mission of this contract is to reduce disaster suffering. Supp. Comments at 7. It was thus reasonable for the agency to assess whether the past performance examples had a disaster context in considering relevance, especially since the solicitation noted that more relevant examples would be given greater weight. Given these factors, we have no basis to question the agency's evaluation of Chevo's past performance.

The protest is denied.

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General Counsel