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Decision

Matter of: Paragon Systems, Inc.

File: B-422828; B-422828.2

Date: November 19, 2024

Douglas P. Hibshman, Esq., Keeley McCarty, Esq., Dana Molinari, Esq., Fox Rothschild LLP, for the protester.

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DIGEST

1. Protest challenging agency's evaluation of quotation as unacceptable is denied where the evaluation was reasonable and consistent with the terms of the solicitation.
 2. Protester is not an interested party to challenge other aspects of agency's evaluation where the protester was not eligible for award as a result of submitting a technically unacceptable quotation.
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DECISION

Paragon Systems, Inc., of Herndon, Virginia, protests the establishment of a blanket purchase agreement (BPA) with Asset Protection and Security Services, L.P., of Corpus Christi, Texas, under request for quotation (RFQ) No. USBQ202400002, issued by the United States Capitol Police (USCP) for unarmed security guard services at the United States Capitol grounds. The protester challenges the agency's evaluation of Paragon's quotation and best-value determination.

We deny the protest in part and dismiss it in part.

BACKGROUND

The USCP is the federal legislative branch police force responsible for providing law enforcement services on the United States Capitol grounds. Agency Report (AR),

Exh. 2, RFQ at 24.¹ The USCP explains that since 2021 it has experienced an unanticipated surge of resignations and retirements, which saw its workforce significantly and unexpectedly reduced. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2-3. Consequently, the agency closed several door and barricade posts throughout the Capitol grounds due to the agency's staffing shortage. *Id.* To meet the agency's urgent and compelling need for additional security officers at various posts across the Capitol grounds, in 2022, the USCP awarded two sole-source contracts for unarmed security guards, one of which was awarded to Paragon. *Id.* at 4, 30. With these two sole-source contracts expiring on August 31, 2024, the agency sought to combine the two contracts under a single, competitively established BPA. *Id.* at 30.

The RFQ here, issued on April 16, 2024, contemplated the establishment of this single BPA, under which fixed-price call orders would be placed, for five 1-year ordering periods. RFQ at 23, 35. In general terms, the selected vendor would provide security guard support services, known as contracted security officers (CSOs), at various post locations throughout the Capitol grounds that fall under the authority of the USCP's Uniform Services Bureau.² *Id.* at 25. The RFQ's statement of work (SOW) specified that the selected vendor should use "a combination of full-time and part-time positions," as necessary, to "ensur[e] adequate post coverage" and "provide full staffing level coverage" for 77 CSO posts specifically identified in the RFQ. *Id.* at 28-29, 70-71.

The RFQ provided that the BPA would be established in accordance with the procedures of Federal Acquisition Regulation (FAR) subpart 8.4, and the basis for award would be "best value." *Id.* at 72. The BPA was to be competitively established based on four evaluation factors, in the following order of importance: (1) technical approach; (2) management, quality control, and staffing plan; (3) past performance; and (4) price.³ *Id.* The RFQ provided that the nonprice factors, when combined, were significantly more important than price. *Id.* In addition, the agency reserved the right to "award to other than the lowest priced quote or other than the highest technically rated quote." *Id.* at 72; COS/MOL at 31.

Relevant here, the RFQ required vendors to submit plans for management, quality control, and staffing to be assessed under the management, quality control, and staffing

¹ The agency assigned sequential BATES numbers to the exhibits submitted with its report. Citations to pages in those documents are to the applicable BATES number.

² Within the USCP, the Uniforms Services Bureau is responsible for providing security services for the United States Capitol grounds and congressional office buildings. RFQ at 24.

³ Vendors were instructed to complete a pricing table by inserting hourly rates for various CSO positions specified in the RFQ, but the RFQ did not address how the agency intended to evaluate the vendors' price proposals. See RFQ at 72-74.

plan factor. RFQ at 72. The RFQ informed vendors that evaluators would look for information that demonstrates the following:

- a. Management Plan: The offeror shall develop and submit its approach to managing the program including project organizational structure, staffing, surge resources, and training. The quote will be evaluated based upon the extent to which it demonstrates a clear understanding of [] all management functions involved in meeting the requirements of the SOW.
- b. Quality Control Plan: The offeror shall develop and submit a detailed Quality Assurance/Quality Control program outline, which clearly details the corporate, and project steps taken to ensure that all contract requirements are met.
- c. Staffing Plan: The offeror must demonstrate the availability and corporate commitment of personnel in sufficient quantity with the technical expertise, training, experience, and certifications to perform the work required by the SOW.

RFQ at 72.

The agency received ten quotations, including quotations from Paragon and Asset, in response to the RFQ. AR, Exh. 4, Award Summary at 85; COS/MOL at 31. On May 20, the agency convened a technical evaluation team, made up of three individuals, who individually evaluated all ten technical quotations. COS/MOL at 31. The technical evaluation team then met to identify strengths, weaknesses, and deficiencies in each quotation, and assign adjectival ratings, by consensus, for each of the technical factors in the RFQ. *Id.* at 32.

The results of the consensus evaluation were as follows:

	Paragon	Asset
Technical Approach	Acceptable	Excellent
Management, Quality Control and Staffing Plan	Unacceptable	Excellent
Past Performance	Acceptable	Acceptable
Overall Rating	Unacceptable	Excellent

AR, Exh. 7, Technical Evaluation Team Consensus at 151.

The technical evaluation team assigned Paragon's quotation a rating of unacceptable under the management, quality control, and staffing plan factor based on the agency's assessment of a deficiency for the quotation's failure to present a clear plan for staffing. *Id.* at 158-59. As a result, the agency assigned Paragon an overall rating of unacceptable. AR, Exh 4, Award Summary at 87; COS/MOL at 32. The technical evaluation team forwarded the results of the consensus evaluation to the contracting officer, who reviewed the evaluation results and determined that the quotation submitted by Asset represented the best value to the government. COS/MOL at 32-33; AR, Exh 4, Award Summary at 110-111.

The agency notified vendors on July 31, and informed Paragon that it was not selected for award. COS/MOL at 33. That same day, the agency provided Paragon with a brief explanation of the award. *Id.* This protest followed.

DISCUSSION

Paragon raises various challenges to the agency's decision to establish the BPA with Asset and not Paragon. The protester argues that the agency's evaluation of Paragon's quotation under both the technical approach factor and the management, quality control, and staffing plan factor was unreasonable and inconsistent with the solicitation criteria. The protester also alleges that the agency failed to document its best-value tradeoff determination. Had the agency performed a proper evaluation and tradeoff, the protester argues, the BPA would have been established with Paragon and not Asset. Protest at 19-27; Comments & Supp. Protest at 11-14.

As detailed below, we find no reason to question the agency's evaluation of Paragon's management, quality control, and staffing plan quotation as unacceptable. Since the agency reasonably determined that Paragon's quotation was technically unacceptable, we conclude that Paragon is not an interested party to raise its remaining protest grounds.

Management, Quality Control, and Staffing Plan Evaluation

Paragon challenges the evaluation of its quotation under the management, quality control, and staffing plan factor, arguing that the agency applied unstated evaluation criteria when assigning a deficiency to Paragon's quotation and a rating of unacceptable. Protest at 23-24. Paragon also argues that the agency unreasonably assigned several weaknesses to Paragon's quotation while not assigning similar weaknesses to the quotations submitted by other vendors. *Id.* at 22-27; Comments & Supp. Protest at 2-8, 10-11. Although we do not address every evaluation issue raised by the protester, we have considered them all and find that Paragon's allegations provide no basis on which to sustain its protest.

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 regulations. *Guidehouse LLP*, B-419336 *et al.*, Jan. 21, 2021, 2021 CPD ¶¶ 60 at 6. Further, 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.

Paragon challenges the deficiency assigned to its quotation for failing to demonstrate how it would meet the RFQ’s staffing requirement. Protest at 23-24. As noted above, the RFQ identified 77 post assignments that vendors were required to staff with CSOs. RFQ at 70-71. In relevant part, the SOW stated that the vendor “shall provide CSO coverage using a combination of full-time and part-time positions as necessary to [p]rovide full staffing level coverage.” *Id.* at 28. The SOW also explained that the contractor “shall fully staff the specified CSO posts for the hours listed in Attachment 1, Post and Duty Assignment Roster by the official commencement date of this contract[.]” *Id.* at 29. Given these staffing requirements, the RFQ instructed each vendor to “develop and submit its approach to managing the program including . . . staffing,” and stated that each quotation would be “evaluated based upon the extent to which it demonstrates a clear understanding of [] all management functions involved in meeting the requirements of the SOW.” *Id.* at 72. In addition, the RFQ informed vendors that quotations “must demonstrate the availability and corporate commitment of personnel in sufficient quantity . . . to perform the work required by the SOW.” *Id.*

Paragon’s quotation, addressing the RFQ’s management, quality control, and staffing requirements, provided:

Paragon will continue to faithfully manage this opportunity protecting the Capital Grounds with [DELETED] [full-time equivalent (FTE)] LSCSOs^[4] overseeing [DELETED] FTE CSOs[], who will execute all security needs at the seventy-seven (77) posts listed in the Post Assignments (Updated Attachment 9)[.]

AR, Exh. 5, Paragon Technical Quotation at 119. The agency evaluators identified this aspect of Paragon’s quotation to be a deficiency. AR, Exh. 7, Technical Evaluation Team Consensus at 158-59. Specifically, the agency noted that Paragon’s quotation did not provide a clear plan for staffing all 77 posts identified in the RFQ: “staffing of [DELETED] [supervisory CSOs] and [DELETED] CSOs for 77 posts listed, which makes them deficient[t] from the start. No clear plan for 100 [percent] staffing in accordance with the current solicitation.”⁵ *Id.* at 159.

⁴ The acronym “LSCSO,” as used here, refers to “Lead Supervisory Contract Security Officer.” RFQ at 26.

⁵ The individual evaluator notes provide additional explanation of this evaluation finding. Under the heading for deficiencies, one evaluator noted the following:

On page 4, [vendor] states that it will manage this contract by providing “[DELETED] FTE LSCOs overseeing [DELETED] FTE CSO[s] who will execute
(continued...)

The protester argues that there was no requirement in the solicitation to propose dedicated employees for each post identified in the RFQ. The protester further asserts that since “approximately 20” of the posts are part-time, “Paragon was able to staff multiple of these 77 positions with less than 77 FTEs.” Protest at 23. In short, Paragon argues that its staffing plan “did indeed cover all 77 of the CSO posts, even if it only proposed using [DELETED] FTEs to staff those posts.” *Id.* As a result, the protester contends that assigning its quotation a deficiency and disqualifying Paragon from the competition for failing to propose 77 FTE employees was unreasonable and contrary to the solicitation’s evaluation criteria.⁶ *Id.* at 23-24; Comments & Supp. Protest at 8.

The agency responds that the protester mischaracterizes the basis for the deficiency: the evaluators assigned a deficiency because Paragon’s quotation did not include an explanation or clear plan to staff the 77 posts with [DELETED] employees--and not simply because Paragon did not propose 77 FTEs in total. See COS/MOL at 27-28; Supp. MOL at 8-11. The agency notes that the management, quality control, and staffing plan evaluation factor asked vendors to demonstrate a plan to meet the RFQ’s full staffing coverage requirement. See Supp. MOL at 8. Accordingly, USCP represents that the agency’s evaluation of Paragon’s proposed approach for fulfilling the 77 posts was consistent with the criteria for the RFQ’s management, quality control, and staffing plan evaluation factor. See *id.* The agency argues further that Paragon’s quotation provided only conclusory statements about the vendor’s staffing approach and did not provide a clear explanation for how Paragon intended to ensure full staffing coverage with fewer than 77 employees. See *id.* at 8-9. Because Paragon failed to explain or articulate a clear plan describing how it intended to cover all 77 posts with fewer than 77 employees, the agency contends that the evaluators reasonably assigned Paragon’s quotation a deficiency and an overall rating of unacceptable. *Id.*

As a general matter, where a protester challenges an evaluation as unfairly utilizing unstated evaluation criteria, our Office will assess whether the solicitation reasonably informs vendors of the basis for the evaluation. *Raytheon Co.*, B-403110.3, Apr. 26, 2011, 2011 CPD ¶ 96 at 5. In that regard, procuring agencies are not required to identify every area that may be taken into account; rather, it is sufficient that the areas

all security needs at the 77 posts listed on post assignments. This appears the offeror will be operating at a deficit of nearly [DELETED] CSOs off the bat with no clear plan of action for providing 100 [percent] staffing as requested in RFQ. Because of this, it appears there will be substantial doubt [vendor] can fulfill [the] staffing requirement.

AR, Exh. 12, Individual Evaluator Worksheets at 231.

⁶ Paragon also notes that in its price quotation it proposed the required number of hours “to meet the work requirements for all 77 Post Assignments,” which Paragon argues the agency overlooked. Protest at 24.

considered in the evaluation be reasonably related to, or encompassed by, the stated evaluation criteria. *Id.* Moreover, it is a vendor's responsibility to submit a well-written quotation with adequately detailed information that clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. *Enterprise Sols. & Mgmt. Corp.*, B-421776, Sep. 28, 2023, 2023 CPD ¶ 231 at 9. Agencies are not required to infer information from an inadequately detailed quotation, or to supply information that the vendor elected not to provide. *Id.*; *Optimization Consulting, Inc.*, B-407377, B-407377.2, Dec. 28, 2012, 2013 CPD ¶ 16 at 9 n.17. Where a quotation omits, inadequately addresses, or fails to clearly convey required information, the vendor runs the risk of an adverse agency evaluation. *RK Consultancy Servs.*, B-420030, B-420030.2, Nov. 3, 2021, 2021 CPD ¶ 356 at 3.

We find that the agency's evaluation of the level of quotation detail, or lack thereof, relating to Paragon's plan to staff the 77 required posts, was reasonably related to the stated evaluation criteria. In this regard, the RFQ established that the agency intended to evaluate the vendor's clear understanding of all management functions, including staffing, and asked vendors to demonstrate the availability of personnel in sufficient quantity to perform the work called for in the SOW. See RFQ at 72. In addition, the record does not support the protester's argument that the agency penalized Paragon for not proposing dedicated employees for each of the 77 posts. Instead, the record shows that the agency assigned the deficiency, and a rating of unacceptable under the applicable evaluation factor,⁷ because Paragon's quotation provided a conclusory statement that the firm intended to execute all of the security needs of the 77 posts with [DELETED] employees--but then failed to provide a "clear plan" describing how Paragon would meet the RFQ's staffing requirement with only [DELETED] employees. See AR, Exh. 7, Technical Evaluation Team Consensus at 158-159; AR, Exh. 12, Individual Evaluator Worksheets at 231; Technical Evaluation Team Chairperson's Decl. at ¶¶ 8-10; Contracting Officer's Decl. ¶¶ 4-5. While Paragon may disagree with the agency's assessment, such disagreement with the agency's evaluative judgment, without more, does not provide a basis on which to sustain the protest. See *Creoal Consulting, LLC*, B-419460; B-419460.2, Mar. 4, 2021, 2021 CPD ¶ 148 at 8.

Paragon also argues that the agency did not adequately document the rationale for assigning Paragon's quotation a deficiency, and a rating of unacceptable, and the contracting officer simply adopted this flawed finding without any independent analysis of his own.⁸ Comments & Supp. Protest at 8; see also Supp. Comments at 4-5.

⁷ The rating of unacceptable was defined as: "The [vendor] has demonstrated an approach that fails to meet the performance or capability requirements. There are unacceptable weaknesses or deficiencies. Extreme doubt exists that the [vendor] will successfully perform the proposed effort." RFQ at 73.

⁸ The protester also argues that the agency misapplied the definition of "deficiency" when evaluating Paragon's staffing plan, and, as a result, incorrectly disqualified Paragon from the competition. See Comments & Supp. Protest at 8. Here, the RFQ did not define "deficiency," which was only defined in the agency's internal guidance

(continued...)

Following receipt of the supplemental agency report, our Office requested declarations from the agency explaining the agency's rationale supporting its assessment of a deficiency in Paragon's proposal.⁹ See GAO Req. for Supp. Decl. In response, the agency submitted a declaration from the technical evaluation team chairperson explaining that when reaching consensus, the evaluators applied the definition of deficiency--as set forth in the agency's internal guidance documents--to the criteria in the solicitation and the content of Paragon's quotation. Technical Evaluation Team Chairperson's Decl. at ¶¶ 8-10. The evaluators acknowledged that Paragon identified [DELETED] employees to cover 77 posts, and noted that Paragon's quotation contained no "articulated staffing plan of action," which the evaluators determined to be a failure to satisfy the solicitation's minimum requirements. *Id.* Similarly, the contracting officer submitted a declaration stating his agreement with the evaluators' deficiency assessment, and rating of unacceptable, because Paragon's quotation "did not contain an explanation of how it planned to staff the posts," as required by the RFQ. Contracting Officer Decl. ¶¶ 4-5.

In response, the protester contends that the agency failed to produce contemporaneous documentation showing the agency evaluated quotations in accordance with the RFQ criteria and argues that the agency's post-protest declarations do not fill this gap in the record. Resp. to Supp. Agency Decl. at 6. In this regard, the protester contends that the agency's legal memoranda and declarations should be rejected because they amount to *post hoc* justification that cannot overcome the absence of reasonable, contemporaneous documentation. See *id.*

While it is well established that our Office accords greater weight to contemporaneous materials as opposed to judgments made in response to a protest, post-protest explanations that provide a detailed rationale for contemporaneous conclusions and fill in previously unrecorded details will generally be considered in our review as long as

documents. See, e.g., AR, Exh. 11, Technical Evaluation Team Kickoff Briefing at 220. Our decisions explain that internal agency guidance such as these documents do not confer legal rights and responsibilities on outside parties. See *Wang Electro-Opto Corp.*, B-418523, June 4, 2020, 2020 CPD ¶ 187 at 9. At any rate, as noted above, we conclude that the agency reasonably found that Paragon's quotation warranted a rating of unacceptable, under the solicitation's evaluation criteria, for failing to demonstrate an approach that meets the performance or capability requirements. See RFQ at 73 (defining an unacceptable quotation as one that "demonstrated an approach that fails to meet the performance or capability requirements.").

⁹ The agency failed to file a supplemental contracting officer's statement with its supplemental agency report, nor did the contracting officer address the agency's rationale for assigning a deficiency to Paragon's quotation in the COS/MOL filed with the initial agency report. As a result, our Office requested from the agency a further explanation of the rationale behind the agency's decision to assign a deficiency to Paragon's management, quality control, and staffing plan quotation.

those explanations are credible and consistent with the contemporaneous record. *Enterprise Sols. & Mgmt. Corp., supra*. Additionally, for procurements that contemplate the establishment of a BPA under FAR subpart 8.4 procedures, such as this one, FAR section 8.405-3(a)(7) provides for a streamlined procurement process with minimal documentation requirements. *Citizant, Inc.; Steampunk, Inc., B-420660 et al.*, July 13, 2022, 2022 CPD ¶ 181 at 13 n.6.

Here, we find the post-protest explanations from the technical evaluation team chairperson and the contracting officer to be credible and consistent with the contemporaneous evaluation record. In this regard, the agency's post-protest submissions clarified that it faulted Paragon's quotation for having no "articulated staffing plan of action," which the evaluators and the contracting officer agreed constituted a deficient approach that failed to satisfy the agency's minimum requirements. Technical Evaluation Team Chairperson Decl. ¶ 8-10; Contracting Officer Decl. ¶ 4-5. This analysis is consistent with the agency's contemporaneous documentation of the basis for the deficiency, which likewise identified Paragon's quotation as having "[n]o clear plan for 100 [percent] staffing in accordance with the current solicitation." AR, Exh. 7, Technical Evaluation Team Consensus at 158-159; see also AR, Exh. 12, Individual Evaluator Worksheets at 231. Although we note that the contracting officer's award summary simply repeats the technical evaluation team's findings, compare AR, Exh. 4, Award Summary at 95 with AR, Exh. 7, Technical Evaluation Team Consensus at 158-159, we find the contemporaneous documentation supporting the assignment of a deficiency, including the individual evaluator findings, sufficient to demonstrate the reasonableness of the agency's evaluation. Furthermore, we also find the contracting officer's post-protest explanation of his adoption of the agency evaluator's findings to be credible and consistent with the contemporaneous evaluation record.

In sum, on this record, we have no basis to question the agency's decision to assign Paragon's quotation a deficiency and a rating of unacceptable based on the quotation's failure to demonstrate an approach that meets the relevant performance requirement. The protester may disagree with the agency's decision, but such disagreement is not enough to demonstrate that the agency's evaluation was unreasonable. See *Ekagra Partners, LLC*, B-420733; B-420733.2, Aug. 9, 2022, 2022 CPD ¶ 220 at 7.

Interested Party Status

Paragon also challenges the evaluation of its quotation under the solicitation's technical approach factor and argues that the agency failed to conduct a best-value tradeoff analysis. Protest at 19-27; Comments & Supp. Protest at 8-14. We need not resolve these issues, however, because we find that the protester is not an interested party to pursue its remaining challenges since Paragon's unacceptable quotation renders it ineligible for award.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3557, only an interested party may protest a federal procurement.

31 U.S.C. § 3552. As a result, for a protest to be considered by our Office, a protester must be an interested party, that is, an actual or prospective vendor whose direct economic interest would be affected by the award or failure to award a contract. *Id.*; § 3551(2)(A); 4 C.F.R. §§ 21.0(a)(1), 21.1(a); *Trailboss Enterprise, Inc.*, B-419209, Dec. 23, 2020, 2020 CPD ¶ 414 at 8-9. Generally, to have the requisite economic interest to maintain a protest, the protester must demonstrate that it would be in line for award if its protest allegation were sustained. *Kearney & Company, PC*, B-420331, B-420331.2, Feb. 4, 2022, 2022 CPD ¶ 56 at 11-12.

We conclude that Paragon is not an interested party to maintain its remaining challenges. An unacceptable quotation cannot form the basis for award. *See, e.g., Strategi Consulting LLC; Signature Consulting Grp., LLC*, B-416867, B-416867.4, Dec. 21, 2018, 2019 CPD ¶ 10 at 14. Accordingly, even if Paragon were to demonstrate that the agency should have rated its technical quotation higher under the technical approach factor, or prevail on any of its remaining challenges, Paragon would remain ineligible for award due to its technically unacceptable quotation. *See id; accord Ekagra Partners, LLC, supra* at 7-8. Thus, Paragon lacks the requisite direct economic interest to maintain its protest on the remaining issues. 31 U.S.C. § 3551(2)(A); 4 C.F.R. § 21.0(a)(1). We therefore dismiss Paragon's remaining arguments.

The protest is denied in part and dismissed in part.

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