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Decision

Matter of: AtVentures, LLC

File: B-421775.6

Date: November 15, 2024

Brian A. Darst, Esq., Odin, Feldman & Pittleman, P.C., for the protester.
Christopher Murphy, Esq., General Services Administration, for the agency.
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DIGEST

Protest challenging exclusion of the protester’s proposal from consideration for award is denied where the record shows that the protester’s proposal failed to comply with a solicitation requirement for mentor-protégé joint ventures.

DECISION

AtVentures, LLC, a mentor-protégé joint venture¹ of McLean, Virginia, protests the General Services Administration’s (GSA) exclusion of AtVentures’s proposal from consideration for award under request for proposals (RFP) No. 47QRCA23R0001. GSA issued the RFP for the award of multiple indefinite-delivery, indefinite-quantity governmentwide acquisition contracts for a variety of services-based solutions, known as One Acquisition Solution for Integrated Services Plus (OASIS+). AtVentures

¹ AtVentures is a mentor-protégé joint venture comprised of Maximus Federal Consulting, LLC, as the mentor member, and Inoventures, LLC, as the protégé member. Protest at 4. The Small Business Administration’s (SBA) small business mentor-protégé program allows small or large business firms to serve as mentors to small business protégé firms to provide “business development assistance” to the protégé firms and to “improve the protégé firms’ ability to successfully compete for federal contracts.” 13 C.F.R. § 125.9(a), (b); see 15 U.S.C. § 644(q)(1)(C). One benefit of the mentor-protégé program is that a protégé and mentor may form a joint venture. 13 C.F.R. § 125.9(d). If SBA approves a mentor-protégé joint venture, the mentor-protégé joint venture is permitted to compete as a small business for “any government prime contract, subcontract or sale, provided the protégé qualifies as small for the procurement[.]” *Id.* § 125.9(d)(1).

contends that the agency unreasonably determined that the protester's proposal did not comply with a solicitation requirement.

We deny the protest.

BACKGROUND

The agency issued the solicitation on June 15, 2023. Agency Report (AR), Tab 4, RFP at 1. The OASIS+ contract is intended "to provide Government agencies with total integrated solutions for a multitude of services-based requirements on a global basis." *Id.* at 21. The family of OASIS+ services contracts includes six distinct indefinite-delivery, indefinite-quantity (IDIQ) contract vehicles for different socioeconomic programs (*i.e.*, unrestricted, small business, woman-owned small business, 8(a), service-disabled veteran-owned small business, and Historically Underutilized Business Zone). *Id.* at 12. The small business category, relevant to this protest, was organized into the following seven domains: management and advisory; technical and engineering; research and development; intelligence services; environmental services; facilities; and logistics.² *Id.* at 23.

The solicitation provided that a proposal would be selected for award if the proposal was submitted by a qualifying offeror³ and the proposal received at least 36 of the 50 available credits for a specified domain, with this credit threshold meant to "ensure the minimum standards are representative of customer needs in that mission space." *Id.* at 202. Offerors could earn credits for the following evaluation elements: qualifying project experience; federal prime contractor experience; systems, rates, and clearances; certifications; and past performance. *Id.* at 197. The credits available for each evaluation element varied by domain, and the RFP included a qualifications matrix and scorecard for each domain. *Id.* The RFP anticipated the award of an unlimited number of contracts. *Id.* at 194, 196.

As relevant here, solicitation section L.5, Proposal Content, identified information that offerors were required to submit. *Id.* at 150-64. Distinct from the scored evaluation elements noted above, the RFP stated: "Submissions detailed in Section L.5.1 are mandatory requirements to be eligible for award."⁴ *Id.* at 150, 149 (listing the five

² An offeror was permitted to submit a proposal for more than one domain. See RFP at 145. The protester submitted a proposal for the management and advisory domain. Protest at 7 n.2.

³ The RFP defined a qualifying offeror as an offeror that met the following criteria: (1) is determined to be responsible, (2) submits a proposal that conforms to the RFP requirements, (3) meets all technical requirements of the RFP, (4) submits fair and reasonable pricing, and (5) is otherwise eligible for award. RFP at 196.

⁴ The RFP repeated this statement in section M.6, technical and past performance evaluation: "Section L.5.1 – General submissions are mandatory requirements, and are (continued...)"

“scored elements” and distinguishing them from the contract award eligibility requirements of section L.5.1). The eligibility submission requirements applicable to joint venture offerors were identified in section L.5.1.3.1. *Id.* at 151-52. For a mentor-protégé joint venture offeror--like AtVentures--the RFP required the offeror to submit “a minimum of one [r]elevant [q]ualifying [p]roject [] from the protégé or the offering [m]entor-[p]rotégé joint venture for each proposed [d]omain.” *Id.* at 152.

In contrast, the RFP also provided that an offeror may receive credit for any scored evaluation element using the resources of an affiliated entity by submitting a meaningful relationship commitment letter. *Id.* at 156. In defining an affiliated entity, the RFP provided that, “[w]ithin a corporate structure, an Offeror (to include a member of a joint venture) may utilize resources from a Parent Company, Affiliate, Division, and/or Subsidiary.” *Id.*

The solicitation provided for an acceptability review, followed by a technical and past performance evaluation. *Id.* at 197. The acceptability review was to be performed on an acceptable/unacceptable basis. *Id.* As relevant here, meaningful relationship commitment letters were to be considered during the acceptability review to see if they met certain documentation requirements, including legal identification of the meaningful relationship, a statement of commitment, clearly identified applicable proposal elements, and certain signatures. *Id.* at 157, 197. Regarding the technical and past performance evaluation, the RFP advised that the agency would evaluate the claimed credits of offerors whose proposals met the acceptability review to confirm those claimed credits were in accordance with the solicitation. *Id.*

AtVentures submitted its proposal by the October 20, 2023, due date. RFP at 143; Protest at 17. In evaluating that proposal, GSA found that AtVentures had submitted qualifying project experience from Maximus Federal Consulting, the mentor in the mentor-protégé joint venture, but had not included a qualifying project performed by Inoventures, the protégé to satisfy the contract eligibility requirement. Contracting Officer’s Statement (COS) at 8. Instead, AtVentures submitted a qualifying project from Inoventures’s wholly owned subsidiary and a meaningful relationship commitment letter for that subsidiary. *Id.* at 10; Protest at 17.

On July 30, 2024, GSA notified AtVentures that its proposal had not been selected for award and provided it with a written debriefing. AR, Tab 7, Unsuccessful Offeror Letter. In the debriefing, GSA wrote that it deemed AtVentures’s proposal nonresponsive and eliminated the proposal from consideration for award because it had failed to provide a qualifying project from the protégé or the offering mentor-protégé joint venture, in accordance with the contract award eligibility requirement for mentor-protégé joint ventures. *Id.* at 2-3; RFP at 150. This protest followed.

not included as a Technical Evaluation Element.” RFP at 198. Additionally, the RFP stated: “Omission of any information from the proposal submission requirements may result in rejection of the offer.” *Id.* at 141.

DISCUSSION

AtVentures challenges GSA's determination that its proposal was nonresponsive and ineligible for award. AtVentures does not dispute that it failed to submit a qualifying project from its protégé or the mentor-protégé joint venture itself to satisfy the contract eligibility requirements but argues that the agency deviated from the terms of the solicitation by not permitting AtVentures to use a project performed by a subsidiary of its protégé to satisfy the requirement. Protest at 22-25. The protester also asserts that GSA's determination usurps the SBA's authority to determine whether a small business meets definitive responsibility criteria. *Id.* at 29-33. After reviewing the record, we find no basis to sustain AtVentures's protest.⁵

First, AtVentures argues that it appropriately relied on a qualifying project performed by Inoventures's subsidiary, in accordance with the solicitation. *Id.* at 17. The protester asserts that the section of the solicitation pertaining to meaningful relationship commitment letters allowed AtVentures to satisfy the contract eligibility requirement for protégés of mentor-protégé joint ventures by submitting (1) a qualifying project performed by an affiliate and (2) a meaningful relationship commitment letter establishing a relationship with the affiliated firm. *Id.* at 22; Comments at 16; Supp. Comments at 6.

GSA responds that the solicitation did not permit a mentor-protégé joint venture offeror to meet the contract eligibility requirements by submitting a qualifying project from an affiliate and a meaningful relationship commitment letter. Memorandum of Law (MOL) at 10-11. Specifically, to satisfy the contract eligibility requirement, the agency asserts that the solicitation required a minimum of one relevant qualifying project from "the protégé or the offering Mentor-Protégé joint venture." *Id.* (citing RFP at 152). To support its position, the agency points to multiple questions and answers (Q&A) incorporated into the solicitation. MOL at 11. For example, GSA points to a question asking for clarification as to why mentor-protégé joint ventures "appear to be more limited than [contractor teaming arrangements] in terms of qualifying project experience," to which the agency responded that the "additional requirement ensures that the [p]rotégé has the necessary relevant experience" and further noted that this requirement "can also be satisfied by the protégé or the [mentor-protégé] joint venture itself." COS at 9 (citing AR, Tab 9, Q&A Group 2 at 9).

The agency also contends that the solicitation language allowing for the submission of meaningful relationship commitment letters pertains solely to the requirements for scored evaluation elements, while the mentor-protégé joint venture qualifying project requirement is a mandatory solicitation requirement regarding eligibility for contract award. Supp. MOL at 6-7 (citing RFP at 152, 156). GSA points out that under

⁵ In its various protest submissions, AtVentures has raised arguments that are in addition to, or variations of, those specifically discussed below. While we do not specifically address all the protester's arguments, we have considered all of them and find that they afford no basis on which to sustain the protest.

AtVentures's interpretation, an offeror could qualify for award if it received at least 36 out of 50 evaluation credits, even if that offeror failed to submit a qualifying project in accordance with the mandatory submission requirements for contract award eligibility in RFP section L.5.1.3.1. Supp. MOL at 8; RFP at 202.

When a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Constructure-Trison JV, LLC*, B-416741.2, Nov. 21, 2018, 2018 CPD ¶ 397 at 3. We begin our review of a dispute concerning the meaning of a solicitation term by examining the plain language. *Bluehorse Corp.*, B-414809, Aug. 18, 2017, 2017 CPD ¶ 262 at 5.

Here, the RFP stated:

[Qualifying project] submissions may be from the joint venture, an individual member of the joint venture, or a proposed subcontractor to the joint venture. *For offers from SBA Mentor-Protégé joint ventures*, a minimum of one Relevant Qualifying Project must be from the protégé or the offering Mentor-Protégé joint venture for each proposed Domain.

RFP at 152 (emphasis added). With respect to the use of a meaningful relationship commitment letter, the RFP stated:

Within a corporate structure, an Offeror (to include a member of a joint venture) may utilize resources from a Parent Company, Affiliate, Division, and/or Subsidiary. Subject to the conditions of this Solicitation, GSA will allow an Offeror to take credit for *any scored evaluation element*, including [qualifying projects], [federal experience projects], past performance, system(s), certification(s), and/or clearances from a Parent Company, Affiliate, Division, and/or Subsidiary so long as there is a meaningful relationship to the Offeror and commitment letters are provided to the Government.

Id. at 156 (emphasis added).

We find the protester's interpretation of the solicitation, as permitting a mentor-protégé offeror to satisfy the contract eligibility requirement with a combination of a qualifying project performed by an affiliate and a meaningful relationship commitment letter, is not reasonable. First, for contract eligibility, the solicitation explicitly required mentor-protégé joint ventures to submit at least one qualifying project that "must" be from the protégé or the mentor-protégé joint venture. RFP at 152. Under AtVentures's interpretation, a mentor-protégé joint venture offeror would be eligible for award if the offeror did not submit any projects that were performed by the joint venture or the

protégé. That reading disregards the plain language of the qualifying project requirement.

Second, the protester's interpretation fails to account for the fact that the meaningful relationship commitment letter provision was limited to offerors claiming credit for "any scored evaluation element." *Id.* at 156. The RFP identified five sections of the solicitation that encompassed the scored evaluation elements, and section L.5.1, which included the special qualifying project submission requirement for MPJVs, was not one of the sections listed. *Id.* at 149. Rather, the RFP stated that the requirements under L.5.1 "are mandatory requirements to be eligible for award." *Id.* at 150. Further, the qualifying project requirement for MPJVs was not listed on the qualification matrix and scorecard and no points were awarded for satisfying the requirements. See RFP, attach. J.P-1, Domain Qualifications Matrix and Scorecards at Technical & Engineering Domain--Small Business Worksheet and Management & Advisory Domain--Small Business Worksheet.

Third, the record also shows that the agency's responses in the solicitation Q&A confirmed the limiting nature of the qualifying project requirement for mentor-protégé joint ventures by explaining, for example, that the "additional requirement ensures that the [p]rotégé has the necessary relevant experience." AR, Tab 9, Q&A Group 2 at 9. AtVentures's interpretation conflicts with this explanation, as satisfying the qualifying project requirement with a meaningful relationship commitment letter would show that an affiliated entity had relevant experience, not that the protégé had such experience.

In sum, we find the protester's interpretation of the RFP unreasonable. AtVentures failed to comply with a mandatory contract eligibility requirement for mentor-protégé joint ventures, rendering its proposal ineligible for award, and GSA reasonably eliminated that proposal from consideration for award. This protest ground is denied.

Next, the protester argues that GSA inappropriately determined that AtVentures failed to meet a definitive responsibility criterion, as the Small Business Act gives the SBA exclusive authority to make responsibility determinations for small businesses. Protest at 29-31. AtVentures bases its contention that GSA made a responsibility determination on the solicitation language stating that meaningful relationship commitment letters would be considered as part of the acceptability review, on an acceptable/unacceptable basis. Protest at 32 (citing RFP at 196). AtVentures points to the evaluation process, arguing that GSA first found its proposal acceptable pursuant to the acceptability review and proceeded with scoring its proposal, and that the agency made a "belated decision to eliminate AtVentures' proposal as 'non-responsive' long after the evaluation under Section M.5 had been completed." Comments at 38.

The agency responds that it properly rejected AtVentures's proposal because it failed to comply with the solicitation's mandatory submission requirements. MOL at 13. GSA also argues that AtVentures misunderstands the solicitation evaluation process: the agency first determined that the protester's meaningful relationship commitment letter passed the acceptability review, then evaluated AtVentures's qualifying projects under

section M.6, technical and past performance evaluation, at which point evaluators discovered that AtVentures did not comply with the qualifying project requirement in section L.5.1.3.1. *Id.* at 5.

Under the SBA's certificate of competency (COC) program, agencies must refer to SBA a determination that a small business is not responsible if that determination would preclude the small business from receiving an award. 15 U.S.C. § 637(b)(7); 13 C.F.R. § 125.5; FAR subpart 19.6. SBA's regulations require a contracting officer to refer a small business concern to SBA for a COC determination when the contracting officer has refused to consider a small business concern for award of a contract or order "after evaluating the concern's offer on a non-comparative basis (*e.g.*, pass/fail, go/no go, or acceptable/unacceptable) under one or more responsibility-type evaluation factors (such as experience of the company or key personnel or past performance)." 13 C.F.R. § 125.5(a)(2)(ii). However, where an agency rejects a proposal as technically unacceptable on the basis of a factor that is arguably responsibility-related, but the finding of unacceptability is based on the offeror's failure to submit specific documentation required by the solicitation, referral to the SBA is not required. *AttainX, Inc.; FreeAlliance.com, LLC*, B-413104.5, B-413104.6, Nov. 10, 2016, 2016 CPD ¶ 330 at 5 (where the agency eliminated proposals from further consideration based on the failure to submit specific documentation required by the solicitation rather than a nonresponsibility determination). This is consistent with the principle that clearly stated RFP requirements are considered material to the needs of the government, and a proposal that fails to conform to such material terms is unacceptable and may not form the basis for award. *Id.*

Here, we do not agree that the agency's rejection of AtVentures's proposal constituted a nonresponsibility determination. Rather, the protester's failure to submit required documentation deprived the agency of the ability to evaluate the protester's proposal in accordance with the solicitation. The solicitation required mentor-protégé joint ventures to submit a minimum of one relevant qualifying project from the protégé or the offering mentor-protégé joint venture. RFP at 152. As established above, AtVentures failed to submit the required documentation to enable the agency to evaluate whether it met this solicitation requirement.

The agency first considered whether the protester's meaningful relationship commitment letter met documentation requirements pursuant to the acceptability review.⁶ MOL at 5. Then, pursuant to the technical and past performance evaluation, GSA evaluated AtVentures's qualifying projects and discovered that the protester had not submitted a qualifying project performed by Inoventures, the protégé, or from AtVentures itself, the mentor-protégé joint venture. *Id.* The agency consequently eliminated the protester's proposal from further consideration based on AtVentures's failure to comply with the clearly stated RFP requirement concerning submission of

⁶ As noted above, the solicitation required meaningful relationship commitment letters to include legal identification of the meaningful relationship, a statement of commitment, clearly identified applicable proposal elements, and certain signatures. RFP at 157.

mentor-protégé joint venture qualifying projects. In other words, AtVentures has not established that the agency made an improper responsibility determination where the record shows instead that the protester failed to submit required documentation necessary for the agency to evaluate whether it met the applicable solicitation requirements.

The protest is denied.

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