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Decision

Matter of: Logan Currito, LLC

File: B-422729.2

Date: December 23, 2024

Jonathan D. Shaffer, Esq., and John Tanner, Esq., Haynes and Boone, LLP, for the protester.

Krishon Gill-Edmond, Esq., Department of Veterans Affairs, for the agency.

Samantha S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester's challenge to the agency's technical and past performance evaluations are denied where the record shows that the evaluations were reasonable and consistent with the terms of the solicitation.

DECISION

Logan Currito LLC, an economically disadvantaged, minority, and service-disabled veteran-owned small business of Woburn, Massachusetts, protests the award of a contract to Yellowstone Enterprises, LLC, an economically disadvantaged, service-disabled veteran-owned small business of Billings, Montana, under request for proposals (RFP) No. 36C78624R50078, issued by the Department of Veterans Affairs (VA) for grounds maintenance services at the Nashville National Cemetery. The protester challenges the agency's evaluation of proposals and resulting best-value tradeoff source selection decision.

We deny the protest.

BACKGROUND

The agency issued the RFP on March 22, 2024, as a combined synopsis/solicitation in accordance with Federal Acquisition Regulation (FAR) part 12, in conjunction with the simplified acquisition procedures prescribed in FAR part 13. Agency Report (AR),

Tab 1.1, RFP at 2, 6, 11.¹ The VA issued the solicitation as a service-disabled veteran-owned small business set-aside, seeking proposals for grounds maintenance services at Nashville National Cemetery. *Id.* at 7.

The RFP contemplated the award of a single indefinite-delivery, indefinite-quantity contract with a 1-year base and four 1-year options. *Id.* Using the comparative evaluation process outlined in FAR section 13.106-2(b)(3), the agency intended to award the contract “to the responsible Offeror whose proposal provides the best benefit to the Government,” when considering three evaluation factors: technical approach and understanding of the work (technical), past performance, and price. *Id.* at 11.

The VA received 11 proposals by the solicitation’s April 22, deadline. Contracting Officer’s Statement (COS) at 1. On June 27, the agency awarded the contract to Yellowstone. *Id.* Following notification of the award decision, Logan Currito filed a protest with our Office challenging the agency’s evaluation of proposals and resulting best-value tradeoff source selection decision. *Logan Currito LLC*, B-422729, Aug. 5, 2024 (unpublished decision). In response, the agency notified our Office that it intended to take corrective action; specifically, the agency stated that it would reevaluate the proposals of Yellowstone and Logan Currito and conduct a new comparative analysis between the proposals. *Id.* We dismissed the protest as academic on August 5. *Id.*

Subsequently, the contracting officer, who was the source selection authority (SSA), concluded that Yellowstone’s proposal represented the best value to the government. AR, Tab 1.10, Award Decision at 6-8. The SSA found Yellowstone’s proposal was superior to Logan Currito’s under the technical and past performance factors, and the advantages associated with Yellowstone’s proposal “justified” awarding the contract to Yellowstone based on a proposed price of \$5,375,650--a premium of \$1,121,686 over Logan Currito’s proposed price of \$4,253,964. *Id.* On September 13, the agency again awarded the contract to Yellowstone. COS at 2.

This protest followed.

DISCUSSION

Logan Currito challenges multiple facets of the agency’s evaluation of proposals under the technical factor as well as under the past performance factor. Comments at 10-29. Additionally, the protester contends that these alleged errors undermined the best value decision. *Id.* at 29-32. We have considered the arguments and issues raised by Logan Currito, and while we do not address them all, we find no basis on which to sustain the protest.

¹ Citations to the record refer to the documents’ Adobe PDF pagination. The agency amended the RFP twice; citations to the RFP are to the consolidated amended version.

Technical Evaluation

Logan Currito contends that the evaluation of technical proposals was unreasonable because, among other things, the agency applied unstated evaluation criteria and misread Logan Currito's proposed approach to the work. *Id.* at 22-29. The agency responds that it reasonably "performed a direct comparison of the proposals" submitted in a manner consistent with the solicitation. Memorandum of Law (MOL) at 7.

Where simplified acquisition procedures are used, the contracting agency has broad discretion in fashioning suitable evaluation procedures. FAR 13.106-2(b)(1). However, the agency must conduct the procurement consistent with a concern for fair and equitable competition and evaluate proposals in accordance with the terms of the solicitation. *Reagent World, Inc.*, B-415490, Oct. 23, 2017, 2017 CPD ¶ 326 at 4. In reviewing protests of allegedly improper simplified acquisition evaluations, we examine the record to determine whether the agency met this standard and exercised its discretion reasonably. *Emergency Vehicle Installations Corp.*, B-408682, Nov. 27, 2013, 2013 CPD ¶ 273 at 4. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that the agency acted unreasonably. *Antico Cantiere Del Legno Giovanni Aprea Di Cataldo S.R.L.*, B-414112, Feb. 21, 2017, 2017 CPD ¶ 58 at 4.

Here, the solicitation established a technical evaluation factor that required offerors to submit a narrative addressing, among other things, relevant experience, proposed key personnel, and a work plan/staffing plan. RFP at 10-11. The agency would then "assess the Offeror's approach in executing the requirement and understanding of the services required in the solicitation." *Id.* at 12. According to the RFP, the agency would evaluate all factors, including the technical factor, "by performing a comparative evaluation in accordance with FAR 13.106-2(b)(3) to determine which response represents the 'best' as a whole." *Id.* at 12. That is, proposals would not be assessed and assigned individual ratings, but would be "evaluated by performing a direct comparison of one proposal with another." *Id.* The agency reserved the right "to consider a response that proposes more than the minimum and select that response if it provides a benefit to the Government." *Id.*

The VA found Yellowstone offered a better proposal under the technical factor than Logan Currito, concluding that Yellowstone identified better experience and key personnel, as well as a better work/staffing plan. AR Tab 1.10, Final Award Decision at 3-5. The protester challenges each of these conclusions.

Relevant Experience

First, Logan Currito challenges the agency's evaluation of offerors' relevant experience under the technical evaluation factor. The protester argues that the "VA unreasonably assessed Logan Currito's experience as compared to Yellowstone by adopting an unstated criteria that excluded or limited experience from key personnel and team members" as opposed to experience from the offeror itself. Comments at 22. The

agency defends its evaluation, asserting that it recognized the experience of the offerors, and reasonably found the awardee's experience to be better under the solicitation's comparative evaluation approach. COS at 6-7.

For the technical proposal, the RFP directed offerors to address their "relevant experience to the solicitation requirements, specifically to include grounds maintenance, headstone/marker maintenance, and interment services." RFP at 10. The record reflects that the VA found Yellowstone identified "over 40 years, when combined, of contractor experience to include grounds maintenance, headstone/marker maintenance, and interment services" for ten National Cemetery Administration (NCA) cemeteries. AR, Tab 1.10, Final Award Decision at 4. By contrast, the agency evaluated Logan Currito's experience as follows:

Although Logan Currito (as a company) does not have experience in grounds maintenance, headstone/marker maintenance or interment services as either a prime or subcontractor, its sole subcontractor, ProDyn (as a company), only has experience as a prime or subcontractor for grounds maintenance and some headstone/marker maintenance. Although Raven Operations has experience at multiple NCA national cemeteries in all related services associated with this requirement, Logan Currito does not propose that Raven (as a company) will actually work as a subcontractor on this requirement. Certain Raven employees will work with either Logan Currito or ProDyn, while Key Personnel like [X] will work as a subcontractor (ProDyn).

Id.

The protester does not contest that, as a firm, it does not possess experience in grounds maintenance, headstone/marker maintenance, or interment services. See Comments at 23 (identifying Logan Currito's "relevant experience" as "providing management concession services at Boston Logan Airport"). Instead, the protester argues that its experience should have been considered at least as good as Yellowstone's experience based on the composition of Logan Currito's "team." *Id.*

We address first Logan Currito's argument relating to consideration of the experience of individuals. According to the protester, the president of ProDyn is also "a senior member" of Raven Operations, LLC--a separate entity that is "the current incumbent contractor" for the services solicited here. *Id.* In addition, ProDyn proposed key personnel currently employed by Raven Operations on the incumbent contract. *Id.* at 24-25. Therefore, according to the protester, the VA was obligated to credit Logan Currito with the experience of Raven Operations. *Id.* at 23.

The protester's argument is based on its view that the agency must impute to Logan Currito, as an organization, the experience of select individual members. We disagree. Our decisions have clearly stated that while an agency *may* properly consider the experience of key personnel in evaluating an entity's corporate experience, absent a

solicitation provision mandating such consideration, there is no legal requirement that it do so. *Rice Servs., Ltd.*, B-284997.5, Mar. 12, 2002, 2002 CPD ¶ 59 at 5. Logan Currito has not identified such a provision in the solicitation, and our review finds none. Therefore, we find no requirement for the agency to attribute the experience of individual members, or that of the Raven Operations firm--an unaffiliated entity--to the protester.

We next address Logan Currito's argument that it was improper for the agency to prefer the experience of an offeror itself--i.e., Yellowstone or Logan Currito--over the experience of a proposed subcontractor. That is, the protester asserts that the agency was not permitted to discriminate between proposals based on whether the experience was held by the offeror itself or by a proposed subcontractor to the offeror. Comments at 23. We disagree.

In comparing proposals, an agency may properly consider specific advantages that make one proposal of higher quality than another. *Asset Prot. & Sec. Servs., LP*, B-417024.6, B-417024.7, Apr. 6, 2020, 2020 CPD ¶ 137 at 7. Even where a solicitation allows (or even specifically provides for) consideration of the experience of proposed subcontractors, we do not find that an agency is prohibited from discriminating between proposals based on whether the experience is the offeror's--the firm with which it will be in privity of contract as the prime contractor--or a proposed subcontractor's. *Cf. Paragon TEC, Inc.*, B-405384, Oct. 25, 2011, 2011 CPD ¶ 240 at 9 n.10 (noting that an agency could properly distinguish between proposals based on prime or subcontractor in the past performance context). A protester's disagreement with the agency's determinations as to the relative merits of competing proposals, or disagreement with its judgment as to which proposal offers the best value to the agency, without more, does not establish that the source selection decision was unreasonable. *Pacific-Gulf Marine, Inc.*, B-415375, B-415375.2, Jan. 2, 2018, 2018 CPD ¶ 124 at 7. Here, we find no basis to question the SSA's finding that direct experience of the offeror, itself, was better than experience offered by virtue of a proposed subcontractor.

In any event, Logan Currito does not claim that ProDyn's experience alone is comparable in relevance to that of Yellowstone. See Comments at 23. Instead, Logan Currito claims that its team has comparable experience if one considers both ProDyn and Raven Operations. *Id.* As discussed above, the agency was under no obligation to consider the experience of Raven Operations--a firm neither affiliated with Logan Currito nor proposed as a subcontractor to perform the contract. As a result, even if the agency were prohibited from distinguishing between the offerors based on which member of the team offered the experience, the record reveals that the Logan Currito team would not offer the depth and breadth of experience of the Yellowstone team, and the agency could still reasonably prefer Yellowstone. In other words, Logan Currito was not competitively prejudiced. Competitive prejudice is an essential element of any viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the procurement are found. *AdvanceMed Corp.*, B-415360 *et al.*, Dec. 19, 2017,

2018 CPD ¶ 4 at 10; *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, 2015 CPD ¶ 228 at 12-13.

Key Personnel

Second, the protester challenges the agency's evaluation of key personnel under the technical evaluation factor, arguing the VA unfairly applied an unstated evaluation criterion. Logan Currito contends that the VA erred when it "failed to fully credit Logan Currito proposed personnel because they were contingent hires," instead of current employees. Comments at 24. The agency defends its comparative evaluation, asserting the assessment was reasonable because the protester's proposed personnel were contingent hires with "less tenure and specific experience in project management roles related to cemetery services, when compared to Yellowstone." COS at 7-8.

Where a protester challenges the evaluation as unfairly utilizing unstated evaluation criteria, our Office will assess whether the solicitation reasonably informs offerors of the basis for the evaluation. *Raytheon Co.*, B-403110.3, Apr. 26, 2011, 2011 CPD ¶ 96 at 5. In that regard, agencies are not required to list, as stated evaluation criteria, every area that may be taken into account; rather, it is sufficient that the areas considered in the evaluation be reasonably related to or encompassed by the stated criteria. *Id.*

For the technical proposal, the RFP required, at a minimum, the following key personnel: "site manager, program/operations manager and staff who will perform key functions." RFP at 11. The record reflects that the VA found Yellowstone's proposed key personnel were "in-house employees and not subcontractors," including a site manager with 16 years of experience and a program manager with 25 years of experience. AR, Tab 1.10, Final Award Decision at 4. According to the VA, Yellowstone's personnel "continuity gives the Government greater confidence in the quality of Yellowstone's performance under this requirement as a prime." *Id.* By contrast, Logan Currito offered personnel with experience, but the agency noted that "on-site key personnel [were] contingent" hires that did not currently work for Logan Currito and also had "less tenure and specific experience in project management roles related to cemetery services when compared to Yellowstone's." *Id.*

As an initial matter, the protester complains that the "RFP did not state that greater weight would be given to current employees" such that they might represent a competitive advantage over contingent employees. Comments at 24. It is not apparent from our review of the solicitation why the benefit of continuity--or the risk of the availability of key personnel--cannot reasonably be considered as part of the evaluation of the key personnel factor. See e.g., *McKean Def. Grp., LLC*, B-415254.2, Dec. 19, 2017, 2017 CPD ¶ 389 at 8-9 (denying protest challenging weakness assigned for proposing contingent hires for key personnel positions). We therefore find no basis to sustain the protester's complaint that the agency identified a benefit to Yellowstone's current employees over the relative risk of the protester's contingent hires.

With respect to relevant experience, the protester does not dispute the agency's assessment of Yellowstone's proposed key personnel as having more years of experience performing work very similar to the services sought in this solicitation. Instead, Logan Currito argues that its personnel should have been considered to have the best possible experience because the firm's "proposed personnel are currently onsite successfully managing the Nashville National Cemetery contract" as employees of the incumbent contractor, Raven Operations. Comments at 26. Underlying the arguments here--as well as many of the allegations discussed later--is the protester's apparent view that proposing incumbent personnel entitles it to higher ratings or additional assessed strengths. There is, however, no requirement that an incumbent--or the proposal of incumbent personnel--be given extra credit in the evaluation, or that an agency assign or reserve the highest rating for the incumbency. See *PricewaterhouseCoopers Public Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 6-7. Thus, such disagreements with the agency's evaluation are insufficient to establish that the agency acted unreasonably, and the allegation is denied. *Candor Sols., LLC*, B-417950.5, B-417950.6, May 10, 2021, 2021 CPD ¶ 199 at 15 n.12 (denying allegation agency unreasonably failed to assess a strength where protester proposed to employ incumbent employee).

Work Plan/Staffing Plan

Third, the protester takes issue with the agency's evaluation of the work plan/staffing plan under the technical evaluation factor. Logan Currito challenges the VA's findings regarding the protester's proposed schedule, equipment, and number of staff, arguing that the agency mischaracterized the proposal or applied unstated evaluation criteria. Comments at 24. The agency defends its comparative assessment, asserting that the evaluation reasonably interpreted Yellowstone's proposal as superior in these regards. COS at 8.

For the work plan/staffing plan element of the technical proposal, the RFP required offerors to provide information "to address how services required are to be accomplish[ed]," including "methodology, list of equipment/vehicles to be used, tour of duties for personnel, responsibilities of each position (to include the labor category), [and] examples of task to be performed." RFP at 11. The SSA concluded that Yellowstone's approach was superior based on the firm's "overall plan," citing a number of differences between Yellowstone and Logan Currito that resulted in the finding that Yellowstone "demonstrated a better understanding of the requirements and the Government's need." AR, Tab 1.10, Final Award Decision at 4-5.

Among the distinctions found between Yellowstone and Logan Currito, the VA noted that the protester's proposed schedule "relegated raise and realignment activities to 3 months in the non-growing season while Yellowstone's has this activity available throughout the entire year."² *Id.* at 5. The protester does not contest that Yellowstone's

² Section A.4.2 of the RFP's statement of work requires "raising, lowering, realigning, resetting, backfilling, and cleaning existing upright headstones." RFP at 41.

proposed schedule showed work on the contract line item numbers (CLINs) for “Raise and Realign of Headstones and Flat Markers” throughout the year whereas Logan Currito showed work under those CLINs in the 3 months of the non-growing season. Comments at 27. Instead, the protester argues that Logan Currito’s approach is consistent with practices under the incumbent contract, and that the agency should have known that “the team has a history of completing headstone work concurrent with grounds maintenance” throughout the year, “as needed by the government.” *Id.*

It is an offeror’s responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation requirements, and an offeror risks having its offer evaluated unfavorably where it fails to submit an adequately written proposal. *PEAKE*, B-417744, Oct. 11, 2019, 2019 CPD ¶ 359 at 4. Agencies are not required to infer information from an inadequately detailed proposal, or to supply information that the protester elected not to provide. *Candor Sols., LLC, supra* at 9. An incumbent contractor (or an offeror that teams with an incumbent) is not protected from an unclear or inadequately detailed proposal by arguing that the procuring agency’s knowledge of the incumbent’s performance should serve as a substitute for information missing from the proposal. *Delta Bldg. Servs., Inc.*, B-405327.2, B-405327.3, Oct. 21, 2011, 2012 CPD ¶ 4 at 7 (denying argument that protester’s incumbency undermines agency’s criticism of protester’s quotation).

On this record, we find no basis to question the agency’s evaluation. Although the protester contends the agency should have understood that Logan Currito’s proposal did not, in fact, mean what it said, the agency was under no obligation to infer information that was not included in the proposal. Because the agency was not required to attempt to remedy the inadequacy of the protester’s proposal, we find no merit to this argument.

The protester also takes issue with some distinctions the SSA found between the offers. Comparing the proposals, the SSA noted that Yellowstone proposed “a significant investment in new equipment including [DELETED] for the Nashville” National Cemetery and more man-hours and year-round full-time employees, while Logan Currito relied “on a mixture of new and used equipment and noticeably less full-time employees.” AR, Tab 1.10, Final Award Decision at 4. Logan Currito argues that because new equipment was not required, and the solicitation did not “indicate that there is any advantage in having a higher staffing count,” the VA’s analysis relied on an unstated evaluation criterion.³ Comments at 28-29.

³ The protester also quibbles with the agency’s “staffing count” for Logan Currito’s proposal, but the agency’s stated understanding of the “average [DELETED] full-time employees in the growing season and [DELETED] in the non-growing season” with “between [DELETED] and [DELETED] part-time on-call laborers” is drawn directly from the protester’s proposal. AR, Tab 1.9, Logan Currito Proposal at 113; AR, Tab 1.10, Final Award Decision at 4 (“Logan Currito proposes an average of [DELETED] full-time employees during the growing season and [DELETED] during non-growing season plus (continued...)”).

As discussed, in comparing proposals, an agency may properly consider specific advantages that make one proposal of higher quality than another. *Asset Prot. & Sec. Servs., LP, supra* at 7. The agency's identification of a distinction between proposals does not equate to the agency's application of an unstated evaluation criterion. See *id.* Moreover, the RFP here specifically identified that the VA reserved "the right to consider a response that proposes more than the minimum and select that response if it provides a benefit to the Government." RFP at 12.

Consequently, we find the VA's consideration of the type of equipment and number of staff proposed to be entirely consistent with the stated evaluation criteria for a work plan/staffing plan for the effort. The RFP specifically required offerors to submit a "list of equipment/ vehicles to be used," as well as a staffing plan for evaluation of the "approach in executing the requirement and understanding of the services required in the solicitation." RFP at 11-12. The protester's true argument appears to be that the agency was wrong to conclude that newer, custom equipment and more staff were better than what Logan Currito proposed. Comments at 28-29.

We have consistently explained that source selection officials have broad discretion to determine the manner and extent to which they will make use of evaluation results, and must use their own judgment in deciding what the underlying differences between proposals might mean to successful performance of the contract. *ERC Inc.*, B-407297, B-407297.2, Nov. 19, 2012, 2012 CPD ¶ 321 at 6; *Applied Physical Scis. Corp.*, B-406167, Feb. 23, 2012, 2012 CPD ¶ 102 at 6. The protester's disagreement with the agency's judgments about the relative merit of competing proposals, without more, does not establish that the agency departed from the solicitation or that the agency's judgments were unreasonable. *Battelle Mem'l Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 13. As Logan Currito has failed to demonstrate any solicitation provision or procurement law or regulation that was violated by the agency's comparative assessment, we find no merit to the protester's challenges to the evaluation of technical proposals.

[DELETED] to [DELETED] part-time employees as needed."). In other words, the protester cannot show that the agency's assessment is inconsistent with the firm's proposal. See *Wang Electro-Opto Corp.*, B-418523, June 4, 2020, 2020 CPD ¶ 187 at 6 (denying protest challenging evaluation where record did not support protester's assertion that agency misunderstood protester's proposal).

Past Performance

Next, the protester objects to the agency's evaluation of the firm's proposal under the past performance factor, arguing that the VA was obligated to credit Logan Currito with the past performance of the Raven Operations firm, because Logan Currito proposed key personnel from Raven Operations. Reply at 5. The agency responds that it acted properly by declining to consider past performance that was performed by Logan Currito's proposed key personnel, but not Logan Currito itself. Supp. COS at 5.

Our Office will examine an agency's evaluation of an offeror's past performance only to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, since determining the relative merit of an offeror's past performance is primarily a matter within the agency's discretion. *Harmonia Holdings Grp., LLC*, B-417475.3, B-417475.4, Sept. 23, 2019, 2019 CPD ¶ 333 at 17; *American Env't Servs., Inc.*, B-406952.2, B-406952.3, Oct. 11, 2012, 2013 CPD ¶ 90 at 5. On the record before us, we find that the agency's evaluation of Logan Currito's past performance provides no basis to sustain the protest.

The protester argues the "RFP required the identification of major subcontractors and key personnel," and as a result, the agency should have considered the past performance of these key personnel when assessing the firm's past performance. Reply at 6. We find little merit to this argument. Our review finds that the solicitation's requirement--that offerors identify major subcontractors and key personnel--did not create an obligation on the part of the agency to consider the qualifications of those entities and individuals in all regards. Further, our decisions have explained that agencies may, but are not required to, consider the past performance of proposed key personnel. See *Olympus Bldg. Servs., Inc.*, B-282887, Aug. 31, 1999, 99-2 CPD ¶ 49 at 4. Accordingly, we find the agency was within its discretion in evaluating the protester's past performance, and this allegation is denied.

Best-Value

As a final matter, the protester argues that the agency's best-value tradeoff decision was improper because it was based on flawed technical and past performance evaluations. Reply at 17-18. Because we find no basis to object to the technical and past performance evaluations, we have no basis to sustain this allegation regarding the award decision. *Merrill Aviation & Def.*, B-416837, B-416837.2, Dec. 11, 2018, 2018 CPD ¶ 421 at 10 (dismissing challenge to source selection decision that was based on denied challenges to the agency's technical evaluation).

The protest is denied.

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