



Decision

Matter of: Beacon Industries, Inc.

File: B-423103

Date: January 15, 2025

James M. Black, II, Esq., Falcon Rappaport & Berkman LLP, for the protester.
Robert E. Sebold, Esq., Department of Defense, Defense Logistics Agency, for the agency.
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DIGEST

Protest that an agency unfairly considered the protester's recent deficient performance under a contract with the same agency for the same item is denied where the agency's evaluation was fair and reasonable notwithstanding the protester's insistence that the past performance was a matter of an ongoing dispute that remains unresolved.

DECISION

Beacon Industries, Inc., of Newington, Connecticut, a small business, protests the award of a contract to General Electric Company, of Lynn, Massachusetts, under request for quotations (RFQ) No. SPE7L0-24-T-003J, issued by the Department of Defense, Defense Logistics Agency (DLA), to supply 85 commercial piston seals (identified by National Stock No. 5330-01-280-9849) for use in Apache and Blackhawk helicopter aircraft. Beacon argues that its quotation was improperly rejected because of allegedly defective performance on another contract for the same items.

We deny the protest.

BACKGROUND

The RFQ was issued on September 16, 2024, and contemplated the award of a single contract, valued below the simplified acquisition threshold, to supply the specified quantity of piston seals. The RFQ identified the piston seals as critical application items and listed two approved sources: Beacon and General. Agency Report (AR), Tab 7, RFQ at 8. The RFQ incorporated the terms of the DLA master solicitation for automated simplified acquisitions, revision 97. *Id.* at 1.

The master solicitation permits both automated and manual awards. The present procurement was conducted as a manual award, for which the relevant provisions of the master solicitation provide as follows:

(e) MANUAL EVALUATION: When automated evaluation is not used . . . quotations will be evaluated and awarded manually. . . .

(f) MANUAL EVALUATION FACTORS: If the requirement is evaluated manually, price, delivery, and past performance will be considered in accordance with the terms in the solicitation. . . .

DLA Master Solicitation for Automated Simplified Acquisitions (rev. 97) at 5 (available at https://www.dla.mil/Portals/104/Documents/J7Acquisition/MasterSolicitation4ASAcqRev-97_May_24_2024.pdf (last visited Jan. 15, 2025)).

DLA received two quotations, from Beacon and General. The contracting officer reviewed the quotations and documented the evaluation and source selection judgment in a brief narrative. The contracting officer considered General's quotation acceptable and noted that the firm had the required quantity of acceptable parts in stock for delivery, whereas Beacon's recent performance under a contract for the same items reflected "quality issues with . . . material they [the requiring activity] previously received." AR, Tab 11, Simplified Acquisition Award Documentation at 2. The contracting officer also noted that Beacon had been issued a stop-work order under that ongoing contract "for non-conforming material" and that "[a] quality notification was issued for [the] same contract." *Id.* at 2-3. The contracting officer analyzed the quoted prices, price history, and determined that the contract should be awarded to General.

DLA informed Beacon of the award, after which it filed this protest.

DISCUSSION

Beacon's protest raises three grounds: (1) that the stop-work order issued under the firm's existing contract is baseless and unjustified, (2) that the stop-work order lacks a sufficiently clear basis, and (3) that DLA did not fairly consider Beacon's quotation due to the unjustified stop-work order. Protest at 1. As relief, Beacon asks our Office to recommend that DLA "provide Beacon with the reason(s) for its issuance of the Stop Work Order and the basis to rectify same and thereafter reevaluate [under the RFQ]." *Id.* at 2.

DLA argues that the protest raises contract administration issues that are outside the scope of this Office's protest jurisdiction, and that the contract award to General was proper under simplified acquisition procedures. Combined Memorandum of Law and Contracting Officer's Statement (COS/MOL) at 3-4.

An agency's decisions about performance of a different contract are matters of contract administration that are outside the scope of our Office's protest jurisdiction. So, even if we assume Beacon has a valid challenge to the stop-work order issued under an

ongoing contract with DLA, those matters are not subject to review by our Office. 4 C.F.R. § 21.5(a); *see, e.g., Operational Serv. Corp.*, B-228891, Sept. 3, 1987, 87-2 CPD ¶ 222 at 2 (dismissing grounds challenging agency decision to not obtain services under existing contract). Indeed, Beacon states that it has already “formally contested the validity of this stop work order and is actively engaging in negotiations with [DLA] to resolve the matter.” Comments at 2. Accordingly, we will not consider Beacon’s objections to the validity of, or process associated with, DLA’s issuance of a stop work order under the contract Beacon had been performing.

With respect to Beacon’s objection to DLA’s decision to award the contract to General, the firm argues that DLA unfairly evaluated its quotation under this RFQ by considering the existence of the stop-work order. Protest at 1. In Beacon’s view, “[t]he stop work order against Contract SPE7LI-23-C-0005 was the primary justification for awarding the contract to [General].” Comments at 2. The firm bases this contention on its assertion that considering its recent performance on a contract with the same agency for the same piston seals constitutes an improper “advantage for [General] while unfairly prejudicing Beacon, undermining the principles of fairness and transparency.” *Id.* at 3. The firm then contends that it was improper for DLA to consider the quality issues in its recent performance because there is what the protester characterizes as an “unresolved dispute” over the basis for the stop work order. Therefore, Beacon asserts, considering those issues in awarding this contract to General “calls into question the legitimacy” of both the stop work order and the contract award, and “undermines the principles of accountability and impartiality.” *Id.* at 4.

DLA maintains that the consideration of Beacon’s quotation was reasonable and adequately documented, and the selection of General’s quotation for award was proper. COS/MOL at 4.

Where an agency conducts a procurement using simplified acquisition procedures, it must act with concern for fair and equitable competition and must evaluate proposals in accordance with the terms of the solicitation. *Sky Quest Aviation LLC*, B-415383, Dec. 4, 2017, 2017 CPD ¶ 374 at 3. Where a protester challenges the evaluation and source selection in a simplified acquisition, our Office will examine the record to determine whether the agency met this standard and exercised its discretion reasonably. *Mainstream IP Sols.*, B-418722, July 14, 2020, 2020 CPD ¶ 284 at 2-3.

Despite the protester’s contention that consideration of DLA’s recent experience with the firm in awarding this contract was unfair, illegitimate, or biased, it shows no legal error by DLA. Rather, an agency may base its evaluation of a protester’s past performance upon a reasonable perception of inadequate past performance, without regard to the firm’s efforts to dispute it. Accordingly, a protester’s “continued disagreement with the agency’s interpretation of these issues since they arose during performance . . . is insufficient to demonstrate that the agency’s evaluation was unreasonable or otherwise inconsistent with the solicitation.” *C2G Ltd. Co.*, B-416460.3, B-416460.5, May 14, 2019, 2019 CPD ¶ 193 at 5.

In short, Beacon fails to show that DLA's evaluation of its quotation, including the agency's assessment of the firm's past performance, was unfair or unreasonable.

The protest is denied.

Edda Emmanuelli Perez
General Counsel