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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Scaletta Armoring

File: B-412302

Date: January 14, 2016

Daniel Trainor, for the protester.

James E. Hicks, Esq., Department of Justice, for the agency.

Cherie J. Owen, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation and tradeoff decision is denied where the agency reasonably concluded that awardee's quotation offered several advantages that warranted the payment of the associated price premium.

DECISION

Scaletta Armoring, of Bedford Park, Illinois, protests the award of a contract to The O'Gara Group, of Fairfield, Ohio, under request for quotations (RFQ) No. D-15-SA-0058, issued by the Department of Justice, Drug Enforcement Agency (DEA), for three BMW X5 Series sport utility vehicles with Level C armoring. Scaletta challenges the evaluation of quotations and resulting source selection.

We deny the protest.

BACKGROUND

The Department of State maintains a list of the vendors authorized to armor vehicles to the Level C standards¹. The list consists of four vendors, including Scaletta and O'Gara. Contracting Officer Statement (COS) at 2. The RFQ, issued on May 13, 2015 to the four vendors on the list, sought quotations for BMW X5 Series sport utility vehicles (SUVs) with Department of State (DOS) Level C

¹ Department of State's specifications for Level C armoring are classified. COS at 2, n.1.

armoring. RFQ at 1-2, 6. The RFQ provided for award on a best-value basis, considering the following four evaluation factors: technical capability, delivery, past performance, and price. RFQ at 4-5. The non-price factors were significantly more important than price. RFQ at 5.

Under the technical capability factor, vendors were required to show that they understood the solicitation requirements and demonstrate their ability to meet all requirements of the statement of work. As relevant here, the statement of work provided that “DEA requires a minimum 2 year, 24,000 mile warranty.” RFQ at 14. Under the delivery factor, the RFQ required that the “offeror shall provide a detailed proposed completion schedule.” RFQ at 3.

Two vendors--Scaletta and O’Gara--submitted quotations by the June 20, 2015 due date. COS at 2. Their quotations were evaluated as follows:

	O’Gara Group	Scaletta Armoring
Technical Capability	Exceptional	Very Good
Delivery	Very Good	Acceptable
Past Performance	Substantial Confidence	[Substantial] Confidence ^{2]}
Price	\$601,896	\$549,720

Agency Report (AR), Tab 4, Technical Evaluation, at 3; Tab 5, Memorandum to File, at 3-4.

Under the technical capability factor, the evaluators found O’Gara’s warranty to be outstanding.³ AR, Tab 4, Technical Evaluation, at 3. In contrast, the evaluators found that Scaletta’s quotation failed to meet the RFQ’s requirement for a 2 year, 24,000 mile warranty, RFQ at 14, and offered instead only a 2-year/20,000 mile warranty. AR, Tab 4, Technical Evaluation, at 4. The evaluators further noted that

² The technical evaluation report states that Scaletta’s rating was “confidence.” AR, Tab 4, Technical Evaluation, at 3. However, the contracting officer stated that she understood Scaletta’s rating to be “substantial confidence” because the evaluation report’s narrative regarding Scaletta’s past performance appeared to be identical to the narrative regarding O’Gara’s past performance. COS at 5.

³ Since no protective order was issued in this matter our discussion is necessarily general in places. The agency provided a redacted copy of the agency report to the protester and the intervenor, from which it excluded proprietary and source selection sensitive information. Our Office was provided a separate unredacted report for our “in-camera” review.

while O’Gara’s quotation affirmatively represented that BMW’s original equipment manufacturer (OEM) warranty would continue to cover the vehicle after the modifications, Scaletta’s quotation did not provide a similarly unequivocal statement. Id. at 3; AR, Tab 3, O’Gara Group Quotation, at 15; AR, Tab 2, Scaletta Armoring Quotation, at 5. In this regard, the evaluators understood that, unless a contractor has a specific agreement with BMW to extend its OEM warranty after the vehicle is modified through armoring, BMW generally does not extend its OEM warranty. AR, Tab 4, Technical Evaluation, at 4. The evaluators noted that BMW did not have any agreement with Scaletta to extend its OEM warranty, and they concluded therefore that the OEM warranty would be voided once Scaletta armors the vehicles. Id.

The evaluators further noted another discriminator between the vendors’ warranties with regard to obtaining repairs. Specifically, the evaluators noted that under Scaletta’s quotation, in the event that a part needed to be repaired or replaced, the agency would have to pay to ship the part back to Scaletta’s plant, and that there was no discussion in the quotation as to what would be done with regard to parts that could not be easily removed and shipped back to the vendor. AR, Tab 4, Technical Evaluation, at 4; AR, Tab 2, Scaletta Armoring Quotation, at 4-5. In contrast, O’Gara’s quotation stated that it has a team of service technicians with valid passports who are ready to travel if after-sales service is required. AR, Tab 3, O’Gara Group Proposal, at 15. In addition, O’Gara’s quotation stated that the firm maintains relationships with multiple businesses with a global footprint and a strong history in after-sales service, the locations and contact information for which would be contained in the vehicles’ Owner’s Manual. Id.

With regard to delivery, the evaluators assigned Scaletta’s quotation a rating of acceptable, noting that while Scaletta’s delivery schedule was acceptable, it did not clearly address the proposed dates on which the vehicles would be delivered. AR, Tab 4, Technical Evaluation, at 5. In this regard, Scaletta’s quotation provided a “delivery schedule” which contained the assumed start date and three inspection dates: inspection 1, inspection 2, and inspection 3. The quotation, however, failed to indicate whether the three inspection dates were also the dates for delivery of the three vehicles. AR, Tab 2, Scaletta Armoring Quotation, at 4.

In contrast, O’Gara’s quotation, rated very good for delivery, clearly conveyed the delivery dates for each of the three vehicles. AR, Tab 3, O’Gara Group Quotation, at 8. Further, the evaluators found O’Gara’s delivery schedule to be a strength and more advantageous than Scaletta’s delivery schedule. AR, Tab 4, Technical Evaluation, at 4.

The evaluators recommended award to O’Gara, and the contracting officer selected O’Gara’s proposal for award. This protest followed.⁴

DISCUSSION

Scaletta contends that the agency’s evaluation of quotations was unreasonable and the result of bias in favor of O’Gara. Comments at 1-2. Scaletta also challenges the agency’s conclusion that O’Gara’s quotation represented the best value.

A contracting agency’s evaluation of quotations is a matter within the agency’s discretion. Companion Data Servs., LLC, B-410022, B-410022.2, Oct. 9, 2014, 2014 CPD ¶ 300 at 8. In reviewing an agency’s evaluation, we will not reevaluate quotations; rather we will examine the evaluation to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and with procurement statutes and regulations. Id. A vendor’s disagreement with the agency’s actions, without more, is insufficient to render the agency’s evaluation unreasonable. Id. Here, we find that Scaletta’s protest furnishes no basis for questioning the selection of O’Gara.

Evaluation of Quotations

Scaletta challenges the evaluation of vendors’ proposed warranties. In this regard, while it appears that the agency could have evaluated the protester’s warranty as unacceptable based on a failure to meet a material solicitation requirement, the agency nevertheless treated it as only a weakness. The protester, however, asserts that consideration of the applicability of OEM warranties was inconsistent with the solicitation because OEM warranties for the vehicles were not required by the solicitation. Comments at 3.

While the RFQ did not expressly refer to OEM warranties, we note that the RFQ clearly advised vendors that the agency would consider vendors’ technical capability in the context of the statement of work (SOW) requirements. RFQ at 4. Further, the SOW required that vendors provide a “minimum” warranty period of

⁴ The agency contends that the protest is untimely because it was filed 57 days after the award. AR at 3. However, the agency acknowledges that it failed to notify Scaletta of the award “due to an oversight.” AR, Tab 5, Memoranda to the Record, at 2. Further, although the agency notes that notice of the award was posted on publicly accessible websites (USASpending.gov and FPDS.gov), we note that neither of these websites have been designated as the government-wide point of entry (GPE). As a result, we cannot conclude that Scaletta should have known of the award based on the information available on these websites. See Latvian Connection, B-411489, Aug. 11, 2015, 2015 CPD ¶ 251 at 5 (no constructive notice where information was posed on AFSI because AFSI is not the GPE).

2 years/24,000 miles. RFQ at 14. Thus, the evaluation of vendors' warranties, whether OEM or otherwise, was reasonably related to or encompassed by the technical capability factor. See MicroTechnologies, LLC, B-403713.6, June 9, 2011, 2012 CPD ¶ 131 at 3.

We find that the agency reasonably found O'Gara's clear and unequivocal statement that the OEM warranty would continue to cover the vehicles to be a substantial benefit associated with O'Gara's proposal. Similarly, the evaluators reasonably found that O'Gara's proposal exceeded the RFQ's minimum requirements with respect to its proposed [DELETED] mile warranty. AR, Tab 4, Technical Evaluation, at 3. We also find reasonable the evaluators' assignment of a weakness to Scaletta's proposal for failing to offer the minimum warranty required by the RFQ. Id. at 4; RFQ at 14.

Scaletta further argues that O'Gara's vehicles will not, in fact, meet the DOS Level C armoring specifications. Specifically, Scaletta contends that O'Gara's vehicles lack critical coverage at specific points and otherwise fail to meet the specifications. Comments at 6.

As an initial matter, we note that the specifications for Level C armoring are classified. Scaletta did not file a classified protest identifying the specific Level C specifications with which O'Gara's vehicles fail to comply. Rather, the protester makes general allegations that the awardee's vehicles fail to meet the specifications.

Scaletta's allegations are not supported by the record. Although the Level C armoring specifications are classified, the RFQ provided several general requirements. RFQ at 6-14. For example, the vehicles were required to have a self-healing fuel tank, Rod-guard run flat inserts on all five wheels (including the spare), and fresh air intake control to provide positive lockout of outside air. RFQ at 12-13. Our review of the record shows that the quotations of both Scaletta and O'Gara stated that they would armor the vehicles to the Department of State's Level C armoring specifications and would comply with the specifications listed in the RFQ. See AR, Tab 3, O'Gara Proposal, at 2, 9-14; Tab 2, Scaletta Proposal, at 3, 16-18. Scaletta has not identified any language in O'Gara's quotation that is inconsistent with its representations in this regard and we see none.

To the extent that Scaletta contends that O'Gara's actual performance under the contract will not meet the applicable requirements, we find that this concerns a matter of contract administration. Whether a contractor complies with its contractual obligations after a contract is awarded is a matter of contract administration, which our Office does not review under its bid protest function. 4 C.F.R. § 21.5(b)(2); see Ashland Sales & Services Co., B-408969, Nov. 1, 2013, 2013 CPD ¶ 256 at 2.

Next, Scaletta alleges that the agency “skewed the results of the technical evaluation in favor of “O’Gara.” Comments at 1. We view this allegation as essentially asserting bias on the part of agency officials.

Government officials are presumed to act in good faith, and a protester’s contention that procurement officials are motivated by bias or bad faith must be supported by convincing proof; our Office will not consider allegations based on mere inference, supposition or unsupported speculation. BAE Sys. Tech. Solutions & Servs., Inc., B-409914, B-409914.2, Sept. 16, 2014, 2014 CPD ¶ 322 at 11. Here, Scaletta has failed to support its allegations with convincing proof of bias or bad faith. Although the record contains some evidence of errors on the part of the agency,⁵ we find that none of these errors resulted in competitive prejudice to the protester, and there is no convincing proof to support the protester’s assertion that the errors were intentional or the result of bias.

Tradeoff Decision

Finally Scaletta contends that the differences in offerors’ quotations did not justify the price premium associated with O’Gara’s quotation. Comments at 3-4.

Agencies enjoy discretion in making tradeoffs where the solicitation provides for the award of a contract on a best-value basis; the agency’s selection decision is governed only by the test of rationality and consistency with the solicitation’s stated evaluation scheme. Marine Hydraulics Int’l, Inc., B-403386.3, May 5, 2011, 2011 CPD ¶ 98 at 4. Source selection decisions must be documented, and must include the rationale for any business judgments and tradeoffs made or relied upon by the source selection authority; however, there is no need for extensive documentation of every consideration factored into a tradeoff decision. Navistar Defense, LLC; AM General, LLC, B-407975.2 et al., Dec. 19, 2013, 2014 CPD ¶ 287 at 12. Rather, the documentation need only be sufficient to establish that the agency was aware of the relative merits and costs of the competing proposals and that the source selection

⁵ For example, the agency erroneously recorded Scaletta’s past performance rating as “confidence,” although this was not one of the available ratings. The contracting officer stated that, since the narratives accompanying the ratings contained identical language, she believed Scaletta’s rating to be “substantial confidence.” COS at 5. In addition, although the agency’s legal memorandum in response to the protest appears to erroneously conclude that Scaletta is not approved by DOS to armor BMW X5s to DOS Level C armoring specifications, compare AR at 3 with AR, Tab 7, E-Mail Correspondence, at 4, this understanding is not reflected in the contemporaneous evaluation documentation. That is, the record indicates that the agency’s evaluation and trade-off decision were based on a reasonable evaluation and weighing of the advantages and disadvantages associated with each quotation.

was reasonably based. Id.; Worldwide Information Network Sys., Inc., B-408548, Nov. 1, 2013, 2013 CPD ¶ 254 at 6.

Here, the source selection decision was reasonable. In this regard, the source selection authority (who was also the contracting officer) relied on the technical evaluators' analysis of the quotations. The contracting officer noted several aspects of O'Gara's quotation that she found to be superior, including the fact that O'Gara's warranty was outstanding while Scaletta's warranty failed to meet the required minimum number of miles; the fact that O'Gara's quotation specifically stated that the OEM warranty would extend to cover the vehicle even after armoring, while Scaletta's quotation did not provide such an unequivocal statement; and the fact that Scaletta's quotation provided that, in the event that defects were discovered during the warranty period, the agency would be required to pay to ship the defective part to Scaletta's plant, while O'Gara's quotation provided that service technicians would travel to perform the required repairs. AR, Tab 5, Memoranda to File, at 3-4.

As a result, the contracting officer concluded that the non-price superiority of O'Gara's quotation was worth the price premium associated with the quotation. On this record, we see no basis to conclude that the contracting officer failed to analyze the qualitative differences between the quotations, failed to document the basis for her conclusion that the higher-rated, higher-priced quotation was the best value to the government, or otherwise was unreasonable in her source selection decision.

The protest is denied.

Susan A. Poling
General Counsel