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Decision

Matter of: Technik, Inc.

File: B-415250.2; B-415250.3

Date: March 22, 2018

David S. Black, Esq., and Gregory R. Hallmark, Esq., Holland & Knight LLP, for the protester.

Steven J. Koprince, Esq., Matthew P. Moriarty, Esq., and Ian P. Patterson, Esq., Koprince Law, LLC, for VSolvit LLC, the intervenor.

Leigh Ann Bunetta, Esq., General Services Administration, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that selection of vendor for Federal Supply Schedule order was unreasonable and reflected unequal evaluation treatment is denied where the contemporaneous record shows that the evaluation was reasonable and consistent with solicitation's evaluation criteria.

DECISION

Technik, Inc., of Herndon, Virginia, a small business, protests the issuance of a Federal Supply Schedule (FSS) order to VSolvit, LLC, of Sonora, California, also a small business, under request for quotations (RFQ) No. ID08170075, issued by the General Services Administration (GSA), Federal Acquisition Service, for information technology support services at the Department of the Army, Dugway Proving Ground, West Desert Test Center Test Network, in Utah. Technik, the incumbent contractor, argues that GSA misevaluated the quotations, treated the vendors unequally, and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The RFQ was issued on August 30, 2017, under FSS Schedule No. 70, the general purpose information technology and support services multiple-award schedule, to vendors that were also participants in the Small Business Administration's section 8(a)

business development program. The RFQ requested quotations to provide a technical approach in no more than 25 pages for performing services identified in the RFQ performance work statement (PWS). The PWS divided the services into six tasks. As relevant here, Task 4 was identified as “operations support,”¹ and Task 5 was identified as “custom software development,” the elements of which were set forth in eight paragraphs (¶¶ 1.3.5.1 through 1.3.5.8). The second paragraph specified that the vendor was to provide “custom software development” support, defined that term, and stated that the “[c]ontractor shall not cross-utilize personnel for this function.”² PWS at 13 (¶ 1.3.5.2).

The RFQ also specified minimum experience requirements that vendors were required to identify for the candidates proposed for particular positions. As relevant to the protest, the PWS directed the vendor to “[e]nsure the Program Manager have [sic] a minimum of three (3) years’ experience in Program Management and Information Technology.” PWS at 15 (¶ 4.8).

An FSS order would be issued to the vendor whose quotation provided the best value under three factors: approach, past performance, and price. The non-price factors, when combined, were significantly more important than price. RFQ amend. 1 at 8-9. Under the approach factor, the RFQ directed vendors to address both a transition plan and a staffing approach, including recruitment and retention of qualified personnel, and utilization of personnel to perform the work, and advised vendors to give special attention to the remote location of Dugway Proving Ground. Id. at 8. The approach factor evaluation would assess whether the vendor’s response “adequately satisfie[d] the requirements identified in the PWS,” the vendor’s recruitment and retention of personnel would result in successful performance, and whether its transition plan was realistic for achieving successful transition on time. Id. at 9. The past performance factor is not at issue here.

GSA received quotations from eight vendors, including both VSolvit and Technik. Although a technical evaluation team (TET) at Dugway Proving Ground evaluated the quotations, the contracting officer determined that the TET’s efforts were inconsistent with the RFQ and could not be used. AR at 3-4. The contracting officer then directed a new evaluation, to be performed by a GSA Director of Assisted Acquisition Services. Id. at 4. Under the approach factor, the director prepared brief evaluations of the vendors quotations that utilized adjectival ratings (excellent, good, satisfactory, marginal, or unsatisfactory) along with supporting narrative explanations for the rating selected.

¹ Task 4 listed three sub-tasks: helpdesk support (¶ 1.3.4.1), system administration (¶ 1.3.4.2), and software maintenance (¶ 1.3.4.3).

² GSA explains that this prevented personnel assigned to fixed-price tasks from performing Task 5 (which was priced using hourly rates), which thereby ensured that the government would “get[] the performance for which it is paying under the . . . fixed price tasks.” Agency Report (AR) at 8.

The evaluation under the approach factor determined that Technik's quotation improperly proposed to cross-utilize personnel under Task 5, contrary to the RFQ requirement. Although the Director identified several positive aspects of Technik's quotation, the Director assessed a rating of marginal under the approach factor, based on the risk of improper performance posed by cross-utilization of personnel under Task 5. AR, Tab 9, Approach Evaluation of Technik, at 3. In contrast, the Director evaluated VSolvit's quotation as exceeding the RFQ requirements and providing a detailed approach, which resulted in a rating of excellent under the approach factor. AR, Tab 10, Approach Evaluation of VSolvit, at 3.

The results of the evaluation for Technik and VSolvit were as follows:

	Approach	Past Performance	Price
Technik	Marginal	Excellent	\$13.8 million
VSolvit	Excellent	Excellent	\$11.5 million

AR, Tab 11, Price Analysis and Award Decision, at 7.

The contracting officer reviewed the evaluation by the GSA Director, and summarized the significant points of the evaluation of VSolvit, Technik, and other vendors. AR, Tab 11, Price Analysis and Award Decision, at 4-5. The contracting officer then expressed her view that VSolvit's quotation was a "clear outlier" in terms of technical superiority under the non-price factors and the lowest risk of unsuccessful performance. Id. at 7. The contracting officer considered a tradeoff, specifically addressing both the positive aspects of Technik's quotation and the risk posed by cross utilization of Task 5 personnel, and then determined that both VSolvit's non-price advantages and its lower price precluded considering Technik for award. Id. at 8. The contracting officer selected VSolvit's quotation for award. Id. Technik filed this protest after being notified of the award and the basis for the evaluation of its quotation as marginal.

PROTEST

Technik challenges the evaluation of both firms' quotations, and argues that GSA improperly replaced the TET with an evaluator who lacked necessary expertise and made an unreasonable best-value determination. We have considered each of Technik's arguments, and as explained below, we conclude that none provides a basis to sustain the protest.

First, Technik challenges the evaluation of its quotation as cross-utilizing personnel assigned to perform Task 5 of the PWS. Technik argues that it did not propose to cross-utilize personnel performing Task 5, so the GSA evaluator misinterpreted its quotation. More specifically, Technik notes that it did propose to cross-utilize some personnel, but not the staff assigned to Task 5. Technik argues that although cross-utilized personnel were identified in several areas of the quotation, none included the staff assigned to Task 5. Protest at 9-16; Protester's Comments at 8-21.

For procurements conducted pursuant to Federal Acquisition Regulation (FAR) subpart 8.4 that require a statement of work, such as this one, FAR § 8.405-2(f) designates limited documentation requirements: the agency's evaluation judgments must be documented in sufficient detail to show that they are reasonable. Delta Bldg. Servs., Inc., B-405327.2, B-405327.3, Oct. 21, 2001, 2012 CPD ¶ 4 at 6.

Our review of the contemporaneous record does not substantiate Technik's argument that the evaluation here was unreasonable. Technik's quotation discussed the organization of its staff in five teams. AR, Tab 7, Technik Quotation, at 8. As relevant here, "Team 1" was identified as the "software development team," and was staffed with four full-time equivalents (FTE): one as a software development lead, one as a software maintenance lead, and two as software developers. Id. The description of the "team responsibilities and technical execution" then noted that "[a]ll proposed FTE [full-time equivalents] will support multiple PWS areas." Id. at 9. A table that followed was described as "provid[ing] staff utilization information including details such as team responsibilities and activity summaries." Id. There, the responsibilities for Team 1 were "provid[ing] software development and maintenance for over 25 . . . applications and databases and resolv[ing] . . . 300-500 maintenance tickets." Id. The table then listed a technical execution activity summary for team 1, the two elements of which were labeled as "Development (Task 5, PWS [¶] 1.3.5)" and "Maintenance (Task 4, PWS [¶] 1.3.4.3)." Id. Technik has not shown how, given these statements in its quotation, GSA's evaluator was unreasonable in concluding that Technik had proposed to utilize the same personnel on both tasks 4 and 5.

Nevertheless, Technik argues that a "staffing chart," later in the quotation, showed the four FTEs in Team 1 as two FTE's identified to PWS element 1.3.4.3 (software maintenance within Task 4), and two identified to PWS element 1.3.5 (Task 5). Id. at 14. An offeror (or vendor, as here) has an obligation to submit a well-written quotation: one that is free of ambiguity regarding its merits or compliance with solicitation requirements. Cubic Simulation Sys., Inc., B-410006, B-410006.2, Oct. 8, 2014, 2014 CPD ¶ 299 at 6. In our view, the staffing chart at best introduced ambiguity between Technik's discussion of the organization of its staffing in its quotation and the staffing chart, and thus is insufficient to demonstrate that the GSA's evaluation was unreasonable.³

Nevertheless, Technik argues, GSA evaluated the quotations unequally because VSolvit's quotation similarly indicated cross-utilization of Task 5 personnel, but GSA

³ Technik argues that its quotation used the term "areas" in the preceding sentence, in stating that its teams were "cross matrixed to support the nine PWS Task Areas (PWS 1.3.1 through 1.3.6), PWS 2.0 . . . PWS 4.0 . . . and PWS 5.0 . . ." Protester's Comments at 16-17 (citing AR, Tab 7, Technik Quotation, at 9). That statement does not contradict GSA's reading of the quotation, particularly in the context of the table that followed, listing software development and maintenance as Team 1 responsibilities, and identifying Tasks 4 and 5.

failed to downgrade VSolvit as the agency had done to Technik. In that regard, Technik argues that VSolvit stated that its approach to Task 5 would involve “[DELETED].” Protester’s Comments at 21 n.6. Technik argues that these statements implied impermissible cross-utilization because VSolvit [DELETED], and therefore the language in VSolvit’s quotation revealed an intention to cross-utilize staff to perform Task 5. Id.

GSA argues that the evaluation was reasonable in assessing aspects of Technik’s quotation that appeared to indicate impermissible cross-utilization of personnel performing Task 5, while, in contrast, VSolvit’s quotation was not downgraded because it clearly specified that personnel under Task 5 would not be cross-utilized. AR at 6, 8-11; Supplemental AR at 5-6.

Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in rating did not stem from differences between the offerors’ proposals. Raytheon Co., Space & Airborne Sys., B-411631, Sept. 16, 2015, 2015 CPD ¶ 361 at 8. Our review of the contemporaneous record shows that VSolvit’s quotation made clear that its approach would not cross-utilize personnel under Task 5, and expressly explained that its staffing approach “[DELETED].” AR, Tab 8, VSolvit Technical Quotation, at 12. This express response to the RFQ requirement distinguishes VSolvit’s quotation from Technik’s on this issue. Accordingly, the record shows that Technik’s claim of unequal treatment lacks merit.

Next, Technik argues that VSolvit failed to provide an approach to staffing specifically tailored to the remote locale of Dugway Proving Ground as required. Technik argues that VSolvit’s quotation provided only techniques that the firm had utilized successfully in other remote locales, without identifying sufficient aspects of its approach that were specifically tailored for Dugway. Protester’s Comments at 22-23. As such, Technik argues that GSA unreasonably failed to downgrade VSolvit’s quotation for failing to provide an adequate staffing approach. Id. GSA counters that VSolvit’s quotation showed that it had provided similar services at other remote locations, recognized that the challenges of doing so also applied here, and described techniques that had been successfully used elsewhere and would be applied to performing under the RFQ. Supplemental AR at 7-9. GSA argues that the evaluator and contracting officer both considered the issue and expressly stated that VSolvit had shown familiarity with the challenges of operating in a remote location and provided an acceptable plan to overcome them. Id. at 8-9 (citing AR, Tab 10, Approach Evaluation of VSolvit, at 2, AR, Tab 11, Price Analysis and Award Decision, at 4).

Our Office’s role in assessing a protester’s challenge to the evaluation is to examine the record to determine whether the agency’s judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. The protester’s disagreement with the agency’s judgment, without more, does not show that the judgment was unreasonable. OHM Remediation Servs. Corp., B-274644 et al., Dec. 23, 1996, 97-1 CPD ¶ 4 at 5. The contemporaneous record here reflects that the agency considered and specifically concluded that VSolvit had addressed challenges of

providing services in a remote location and proposed techniques to successfully perform services at Dugway.

Next, Technik argues that the person VSolvit identified for the program manager position lacks 3 years of experience in program management as the RFQ required. Technik argues that the candidate's experience is identified in a résumé that Technik obtained on an Internet site as being in project management rather than program management. Therefore, Technik argues, GSA could not reasonably consider project management duties to meet the RFQ requirement for program management experience. Protester's Comments at 24-25; Protester's Supplemental Comments at 12-14. GSA argues that the RFQ did not provide for the agency to evaluate personnel qualifications, and that, in any event, VSolvit's quotation adequately demonstrated that the individual had the appropriate skills, background, and experience. Supplemental AR at 10.

Where, as here, the RFQ did not require vendors to submit specific statements about the experience of personnel, or for the agency to evaluate whether key personnel possessed specific experience, we do not think that Technik's reliance on a résumé from an Internet site is sufficient to demonstrate an error in GSA's evaluation of VSolvit's quotation.

Accordingly, we deny all of Technik's challenges to the evaluation of both its and VSolvit's quotations. Although Technik argues that GSA made an unreasonable source selection decision because of the alleged error in the evaluation, as discussed above Technik has not shown that the evaluation was improper.

The protest is denied.⁴

Thomas H. Armstrong
General Counsel

⁴ Technik also argued that GSA impermissibly based its selection decision on the evaluation by the GSA Director who (in contrast to the TET, which was comprised of personnel from Dugway Proving Ground) allegedly lacked necessary expertise. Technik argues that FAR § 15.303(b)(1) mandates that an evaluation be performed by persons with expertise tailored to the specific requirement. Technik concedes that this regulation is not directly applicable to a competition for an FSS order, as here, which was conducted under FAR subpart 8.4. Protester's Supplemental Comments at 26. Technik's argument does not show that GSA violated law or regulation in relying on the director's evaluation.