



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: IntelliDyne, LLC

File: B-416377.4

Date: April 18, 2019

John J. O'Brien, Esq., Laurel A. Hockey, Esq., David S. Cohen, Esq., and Daniel Strouse, Esq., Cordatis LLP, for the protester.
Christopher W. Radcliffe, Esq., and Barry C. Hansen, Esq., Department of Justice, for the agency.
Kenneth Kilgour, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency unreasonably evaluated proposals is denied, where, with the exception of the past performance factor, the evaluation was reasonable and in accordance with the solicitation requirements, and the record does not establish a reasonable possibility that the protester was prejudiced by the error in the evaluation of past performance.

DECISION

IntelliDyne, LLC, of Falls Church, Virginia, protests the exclusion of its proposal from further consideration for award by the Department of Justice under request for proposals (RFP) No. DJJP-17-RFP-1022 for information technology (IT) support services. The protester challenges the reasonableness of the agency's evaluation of the protester's proposal.

We deny the protest.

BACKGROUND

The RFP, issued in accordance with the commercial item acquisition procedures of Federal Acquisition Regulation (FAR) part 12, was intended to acquire information technology support services (ITSS) for the Department of Justice (DOJ) under the fifth iteration of the ITSS program--ITSS-5. The base period of performance will be from the date of award through September 30, 2022; the contract also contains a 5-year option period. Agency Report (AR), Tab 2, Conformed RFP at 30. The agency anticipated

award of approximately 12 contracts, six on an unrestricted basis and six to service-disabled veteran-owned small businesses; this protest concerns the award of contracts on an unrestricted basis. Id. at 88.

The solicitation provided for a two-phase evaluation. Under Phase 1, which is the subject of this protest, the most highly-rated proposals would be chosen to proceed to Phase 2 based on a tradeoff between technical merit and price, with technical merit being significantly more important.¹ Id. at 87. The technical merit factor contained the following five subfactors: corporate experience, past performance, architectural attributes experience, management, and mandatory technical certifications. Id. at 88-89. The corporate experience subfactor was significantly more important than the three other subfactors: past performance; architectural attributes experience; and management. The past performance and architectural attributes experience subfactors were relatively equal in importance and were significantly more important than the management subfactor.² Id. at 87. An overall technical rating would be derived from the ratings for the subfactors. Id.

With respect to the corporate experience subfactor, the RFP required the prime offeror to provide three references for itself and two for no more than two of its major subcontractors. Id. at 75. The RFP advised offerors that proposals should demonstrate the extent and relevance of their experience in the functional areas of the statement of work, with particular emphasis on the following six categories of service (in descending order of importance): design, develop, test, deploy; IT operations maintenance and support; help desk support; IT security; IT program management; and IT planning and enterprise architecture support. Id. at 76-77. The first category of service--design, develop, test, deploy--contained the following eight subcategories: requirements definition; information system design support; development of new software applications, enhance existing applications; web development and maintenance services; mobile applications development; system integration and test; deployment and post implementation support; and, SharePoint development and implementation. Id. at 77.

The solicitation further advised offerors that their proposals should demonstrate the extent and relevance of their experience with emerging, innovative technologies and provided the following examples: managed service offerings such as cloud computing and software as a service; identity management; service-oriented architecture; intelligent search technology; and virtual desktop infrastructure. Id. at 76-77. The RFP also sought a description of the extent and relevance of offerors' experience with the agency's objectives to include the following: data center transformation, enterprise

¹ Although not at issue here, under Phase 2, the two evaluation factors would be sample task order proposals and technical proficiency. Id. at 89.

² The mandatory technical certifications subfactor was evaluated as achieved or deficient.

housing, cyber security, law enforcement information sharing, infrastructure virtualization, DOJ federation services, and, e-mail and collaboration service consolidation. Id. at 77. The agency was to evaluate the offeror's depth and breadth of experience on projects of similar size, scope, and complexity to the requirements in the RFP, to include an assessment of the extent and relevance of the offeror's experience in the six labor categories, emerging technologies, and the above objectives.³ Id. at 88.

Under the architectural attributes experience factor, the agency was to evaluate the degree to which the offeror demonstrates its capabilities and experience relative to incorporating traits in new systems that make them less expensive and easier to operate at the enterprise level. RFP at 88. With respect to the management factor, the agency was to evaluate the degree to which the offeror demonstrated its compliance with having a program management office, including the necessary resources to support the requirement. Id.

The RFP required offerors to submit at least three past performance questionnaires, with the option to submit an additional two. Id. at 78. Offerors were also required to submit one past performance questionnaire for no more than two major subcontractors. Id. The RFP advised offerors that, if past performance references could not be reached, the agency would assign a neutral rating. Id. at 88.

The agency received 46 proposals under the unrestricted track, including IntelliDyne's. The agency's rating of the protester's proposal under each technical subfactor, as well as the overall technical rating, were: corporate experience, satisfactory; past performance, very good; architectural attributes experience, satisfactory; management, satisfactory; technical certifications, achieved; and overall technical, satisfactory. AR, Tab 22, Technical Evaluation Report--Unrestricted, Dec. 12, 2018, at 4. Under the corporate experience factor, the agency assigned the protester's proposal one strength and two weaknesses. The first weakness was that the proposal "demonstrated very limited portfolio of experience in areas of emerging technologies and initiatives similar to DOJ objectives for its first three prime references." AR, Tab 21, Technical Evaluation Panel (TEP) Report at 1934. The second weakness was that IntelliDyne's corporate experience was of "limited scope and complexity" in two of the six categories of service--design, develop, test, deploy, and IT planning and enterprise architecture. Id.

IntelliDyne and its two subcontractors received a total of five ratings of exceptional and one of very good from their past performance references. AR, Tab 32, Amended Selection Determination, at 1-2. The agency assigned ratings of satisfactory for three references for which it did not receive a past performance questionnaire. Id. The

³ During questions and answers that were incorporated into the RFP, the agency stated that the "offeror[']s experience is comprised of the Prime Offeror plus any major subcontractors," and that an "Offeror is not expected to have accomplished most or all IT services under any one reference." AR, Tab 1, Questions & Answers (Q&A), Answers 300 and 425.

agency considered the five exceptional, one very good, and three satisfactory ratings and assigned the protester's proposal an overall past performance rating of very good. Id. at 2. IntelliDyne's total evaluated price was higher than that of all but three other offerors.⁴ Id. at 3-4.

The TEP, after considering price, selected the [DELETED] highest-ranked technical proposals that did not have pricing deficiencies to proceed to Phase 2. AR, Tab 26, Consensus Recommendation Report at 8. All of the selected proposals had overall technical ratings of either excellent or very good.⁵ Id. The agency advised IntelliDyne that its Phase 1 proposal was not one of the most highly-rated and would therefore not receive further consideration for award. In May 2018, IntelliDyne protested the elimination of its proposal from the competition; we dismissed the protest as academic when the agency notified our Office of its intent to take corrective action by re-evaluating the protester's Phase 1 proposal. Agency Corrective Action Notification, June 19, 2018.

After the re-evaluation, the agency's rating of the protester's proposal under each technical subfactor, as well as the overall technical rating, remained unchanged, although the agency made additional "findings" under the corporate experience and past performance subfactors. Compare AR, Tab 22, Technical Evaluation Report--Unrestricted, Dec. 12, 2018, at 3 with AR, Tab 31, Phase 1 Technical Evaluation Report, Nov. 15, 2018, and Tab 32, Contracting Officer Memorandum to File, Nov. 27, 2018, at 2.

In November, the agency again advised IntelliDyne that its proposal was not one of the most highly-rated and would not be further considered for contract award. This protest followed.

DISCUSSION

The protester challenges the evaluation of its proposal under each of the four technical subfactors, except mandatory technical certifications.

⁴ Three offerors failed to follow RFP instructions and had no identified total evaluated price. AR, Tab 24, Phase 1 Consensus Price Evaluation Report--Unrestricted, Feb., 2018, at 4.

⁵ The proposals with an overall technical rating of very good were (1) rated excellent or very good under corporate experience, and at least very good under either the past performance or the architectural attributes experience subfactor; (2) rated satisfactory for corporate experience, excellent for past performance, and at least very good for one of the two remaining subfactors; or (3) rated satisfactory for corporate experience, and very good on all three of the other subfactors. See AR, Tab 26, Consensus Recommendation Report at 3.

The evaluation of technical proposals is a matter within the contracting agency's discretion since the agency is responsible for defining its needs and the best method of accommodating them. The Arcanum Grp., Inc., B-413682.4, B-413682.5, Aug. 14, 2017, 2017 CPD ¶ 335 at 11. Where an evaluation is challenged, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with applicable evaluation criteria, procurement statutes and regulations. Id. The fact that the protester disagrees with the agency's judgment does not render the evaluation unreasonable. InterOcean Sys., Inc., B-290916, Oct. 8, 2002, 2002 CPD ¶ 178 at 4.

Corporate Experience Subfactor

As noted above, the agency assigned the protester's proposal a weakness under the corporate experience subfactor for demonstrating a very limited portfolio of experience in emerging technologies. In the agency's view, IntelliDyne's experience under two of its prime contractor references--the Executive Office of the United States Attorneys (EOUSA) and Defense Health Agency (DHA)--did not match the areas identified in the RFP. That said, the agency noted that the US Marshals Service contract involved "virtualized servers," which, the agency acknowledged, has some relevance to the current requirement. AR, Tab 21, TEP Report at 1934. The agency also credited [DELETED], a major IntelliDyne subcontractor, with cloud services experience. Id.

The protester challenges the weakness noted above, arguing that its proposal demonstrated IntelliDyne's experience with cloud computing, identity management, and cyber security, and [DELETED]'s experience with identity management, law enforcement information sharing, infrastructure virtualization, and big data.

Even accepting the protester's assertions--which the agency challenges⁶--IntelliDyne's proposal demonstrates corporate experience in only a few of the many emerging technologies and department objectives identified by the agency. As previously noted, the RFP identified the following emerging technologies and department objectives: cloud computing, software as a service, identity management, service-oriented architecture, intelligent search technology, virtual desktop infrastructure, data center transformation, enterprise hosting, cyber security, law enforcement information sharing, infrastructure virtualization, DOJ federation services, and email and collaboration service consolidation. RFP at 77. IntelliDyne has not asserted that it or its subcontractor has experience with software as a service, service-oriented architecture, intelligent search technology, virtual desktop infrastructure, data center transformation, enterprise hosting, DOJ federation services, or email and collaboration service

⁶ The RFP placed a limit on the number of corporate experience references. The agency contends that it was not clear that IntelliDyne's cloud computing experience occurred under one of the protester's offered corporate experience references. Thus, the agency argues, it was prohibited from considering that experience, when doing so might have violated the limit on corporate experience references.

consolidation. As a consequence, we see no basis on this record to challenge the agency's assessment of this weakness.

The agency assessed a second weakness in the protester's proposal under the corporate experience subfactor for IntelliDyne's lack of experience in two of the six categories of service: design, develop, test, deploy; and IT planning and enterprise architecture support. The agency noted that the EOUSA reference was "limited to creating and validating a data warehouse." Further, in the agency's view, the support provided under the DHA contract covered deployment of a web server, migrating network infrastructure users to a new network, and imaging laptops and migrating network switches. That work, the agency argues, was related to IT operations and maintenance support, rather than the above two requirements. AR, Tab 21, TEP Report at 1934. The agency further explained that IntelliDyne's proposal demonstrated little or no experience with these three subcategories of design, develop, test, deploy: SharePoint development, mobile applications development, and requirements definition. AR at 18.

The protester challenges the agency's finding that its proposal demonstrated experience of limited scope and complexity in one of the six categories of service: design, develop, test, deploy. In the agency's view, one of IntelliDyne's subcontractors, [DELETED], had experience in this category of service on multiple prior contracts. Supp. Comments at 17. The protester also asserted that, as the prime contractor, IntelliDyne had experience in three of the eight subcategories that comprise design, develop, test, deploy. Id. at 17-18.

An agency may reasonably assign a proposal a weakness under an experience factor for a prime contractor's failure to demonstrate the required experience, even where a subcontractor demonstrates such experience. Scientific Mgmt. Assocs., Inc., B-238913, July 12, 1990, 90-2 CPD ¶ 27 at 8. In our view, this is not inconsistent with the agency's statement in the questions and answers that an offeror's experience is comprised of that of the prime contractor and any major subcontractors.⁷ Here, even accepting the protester's claim of experience under three of the eight subcategories under the category of service titled design, develop, test, deploy, we think that such limited experience on the part of the prime contractor could reasonably contribute to a proposal weakness.

The protester also challenges the agency's finding that IntelliDyne's proposal demonstrated limited experience in IT planning and enterprise architecture service support. AR, Tab 21, TEP Report at 1934. Citing language from the RFP explaining that "IT Planning" included "the modification and process re-engineering of existing systems to encourage and facilitate the development of integrated systems," as well as

⁷ That answer was given in response to the question of whether subcontractors were required to have certain experience, or just the prime contractor. AR, Tab 1, Q&A, Question 300.

“migration planning,” the protester asserted that its proposal demonstrated experience within the IT planning and enterprise architecture service support category of service. Supp. Comments at 19, quoting RFP at 10.

The paragraph from which the above-quoted language is excerpted provides the following fuller explanation of IT planning:

Identification, evaluation and recommendation of solutions and opportunities, including the modification and process re-engineering of existing systems to encourage and facilitate the development of integrated systems, provide added functionality and improve productivity, while taking into account all applicable federal standards and procedures and the client organization’s standards and policies. Includes support for enterprise architecture planning, migration planning, implementation governance, and technology architecture. Also includes IT Strategy and Vision Development, IT Effectiveness Analysis, and IT Cost Reduction.

RFP at 10.

The protester asserts that its proposal demonstrates experience in the modification and process re-engineering of existing systems and in migration planning,⁸ which the RFP describes as facets of IT planning. Comments at 8; Supp. Comments at 19. However, IntelliDyne does not contend that its proposal demonstrates corporate experience in many other facets of IT planning, such as enterprise architecture planning, implementation governance, technology architecture, IT strategy and vision development, IT effectiveness analysis, or IT cost reduction. Moreover, the RFP contains a separate explanation of the tasks to be performed under enterprise architecture. RFP at 11. The protester does not argue that its proposal demonstrates corporate experience in this area. See Comments at 8; Supp. Comments at 19. Nor does IntelliDyne directly address the agency’s contention that the protester’s proposal demonstrated little or no experience in SharePoint development, mobile applications development, and requirements definition. In sum, IntelliDyne has failed to show that the weakness assessed by the agency is unreasonable, where the protester asserts corporate experience in only a few of the many areas encompassed in the weakness.

⁸ The protester also quotes from its proposal that “[DELETED].” Comments at 8, quoting AR, Tab 18, IntelliDyne Proposal at 8 (emphasis in Comments). The protester describes functions under the DHA contract, which the agency evaluated as not sufficiently related to the current effort. See AR, Tab 21, TEP Report at 1934. Moreover, the statement that specific support services are driven by certain things, without more, is insufficient to establish IntelliDyne’s corporate experience in these areas.

Architectural Attributes Experience and Management Subfactors

The protester also asserts that the agency unreasonably failed to identify strengths in its proposal under two subfactors of the technical merit factor: architectural attributes experience, and management. If DOJ had properly recognized those strengths, IntelliDyne argues, the agency would have evaluated the protester's proposal higher under both of those subfactors. Comments at 13-15. The protester argues that it was "incongruous[]" for the agency to make "numerous positive comments" about IntelliDyne's proposal under the architectural attributes experience subfactor, only to find that the proposal met the requirement and to rate it under the subfactor as satisfactory. Id. at 14-15. IntelliDyne provides examples, such as where the agency noted that the "offeror demonstrates good experience in the area of Network Architectures," and performed "extensive integration testing." Id. at 14, quoting AR, Tab 21, TEP Report at 2000 (emphasis in Comments). Similarly, the protester notes that, under the management subfactor, the agency stated that the "IntelliDyne organizational chart and description shows clear lines of communication and relationships between the contractor and Government stakeholders." Comments at 14, citing AR, Tab 22, Technical Evaluation Report-Unrestricted Track, at 49. The protester argues that "[c]learly, the positive statements made by the agency evaluators, either individually or when considered cumulatively, warrant the granting of strength(s)." Id. at 15.

We disagree. As an initial matter, a protester's disagreement with an agency's judgment, without more, does not render an evaluation unreasonable. InterOcean Sys., Inc., supra. Here, in the protester's view, the agency's favorable statements about the protester's proposal should have risen to the level of an evaluated strength. IntelliDyne has provided no argument, however, other than its desire to see its proposal more highly rated. In fact, a cursory look at the evaluation of other proposals demonstrates that the agency treated offerors similarly, making positive references about other proposals without assessing strengths. See, e.g., AR, Tab 21, TEP Report 1927 (noting that offeror "demonstrated a good portfolio of experience in areas of emerging technologies" without assigning strength); 1937 (same); and 1958 (noting that "offeror demonstrates good experience in the area of Network Architecture" without assigning strength). The agency routinely made comments about offerors' proposals without assigning them strengths, and IntelliDyne's disagreement with that evaluation methodology provides no basis on which to sustain this protest.

Past Performance

Finally, the protester further asserts that the agency unreasonably assigned ratings of satisfactory for past performance references that lacked a completed past performance questionnaire, rendering the overall evaluation of the protester's past performance unreasonable. Comments at 4-5. The agency notes that the RFP advised offerors that, if a past performance questionnaire was not returned, the agency would assign a rating of neutral, and argues that its translation of a neutral rating to a satisfactory rating was

reasonable because “Satisfactory’ was the neutral mid-point of the rating scale.” AR at 24.

In our view, the agency’s decision to translate a neutral past performance rating to a rating of satisfactory was unreasonable. The RFP required such references to be evaluated as neutral, and neutral is not synonymous with satisfactory. For past performance, the protester and its subcontractors received five exceptional ratings, and one very good rating. The record supports the protester’s contention that, had the agency not assigned a satisfactory rating to the three past performance efforts for which the agency did not receive completed past performance questionnaires, IntelliDyne’s past performance might have been evaluated as excellent.

Competitive prejudice is necessary before we will sustain a protest, however, and where the record does not demonstrate that the protester would have had a reasonable chance of receiving award but for the agency’s actions, we will not sustain a protest, even if deficiencies in the procurement process are found. Leisure-Lift, Inc., B-291878.3, B-292448.2, Sept. 28, 2003, 2003 CPD ¶ 189 at 10.

Here, based on the overall evaluation ratings for other offerors, it appears that even if the agency had evaluated IntelliDyne’s past performance as excellent, the protester’s overall rating of satisfactory would not in all likelihood have increased to a rating of very good. As noted above, proposals with an overall technical rating of very good were (1) rated excellent or very good under corporate experience, and at least very good under either the past performance or the architectural attributes experience subfactor; (2) rated satisfactory for corporate experience, excellent for past performance, and at least very good for one of the two remaining subfactors; or (3) rated satisfactory for corporate experience, and very good on all three of the other subfactors. See AR, Tab 26, Consensus Recommendation Report at 3. Moreover, the one proposal that under past performance was rated excellent, under technical certifications was rated achieved, under all other subfactors was rated satisfactory, was rated satisfactory overall. Id. Here, the record provides no basis to conclude that the protester would have had a reasonable basis for proceeding to Phase 2 of the evaluation but for the agency’s evaluation of past performance. Consequently, we do not sustain the protest on this basis.⁹

The protest is denied.

Thomas H. Armstrong
General Counsel

⁹ The protester also challenged the agency’s tradeoff decision. Because that allegation was based on challenges to the underlying evaluation that we find to be without merit, or non-prejudicial, we find no basis to sustain the protest on the basis that the tradeoff analysis was unreasonable.