



Decision

Matter of: Tactical Network Corporation

File: B-418962.2

Date: November 30, 2020

Timothy J. Antrim, Tactical Network Corporation, the protester.
Alexis J. Bernstein, Esq., and Josephine R. Farinelli, Esq., Department of the Air Force, 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 agency misevaluated protester's total evaluated price is denied where the price evaluation was reasonable and consistent with the solicitation, and protester did not show any error in the agency's pricing calculations, but instead based its argument on its own mathematical fallacy; allegation that agency improperly changed total evaluated price calculation is denied where, even assuming the change reflected an error in logic, it was implemented equally for both the protester and awardee so the protester could not show that the change resulted in competitive prejudice.

DECISION

Tactical Network Corporation, of Peachtree City, Georgia, a small business, protests the award of a contract to Filius Corporation, of Centreville, Virginia, also a small business, under request for proposals (RFP) No. FA8217-20-R-5000, issued by the Department of the Air Force for sustainment and contractor logistics support for Tactical Air Operations Module AN/TYQ-23A(V)1 and ancillary equipment at multiple Air Force facilities. The protester contends that the Air Force misevaluated its total evaluated price.

We deny the protest.

BACKGROUND

The RFP, issued October 18, 2019, sought proposals from small businesses to provide services under an indefinite-delivery, indefinite-quantity (IDIQ) contract for a 5-year

ordering period and a 6-month option period.¹ AR, Tab 2, Memorandum of Law (MOL) at 2. The contract would be awarded to the offeror that submitted the lowest-priced technically acceptable proposal. *Id.*

The RFP included a performance work statement (PWS) that described the scope of contractor logistics support services worldwide that would be ordered as including engineering support; project services; procurement of spares; depot supply support; and depot maintenance support for hardware/software. AR, Tab 10, PWS, at 7; MOL at 2. Task areas were assigned to individual contract line item numbers (CLIN), which were designated as fixed-price or cost-plus fixed fee. AR, Tab 26, RFP, at 3-11. For example, CLIN 1, for contractor logistics support, would be fixed-priced, while CLIN 2, for engineering services, would be cost-plus fixed fee. *Id.* at 3-4.

Offerors were instructed to submit technical and cost/price proposals. Technical acceptability would be evaluated under a mission capability factor, which had four subfactors. AR, Tab 35, RFP amend. 2 at 54-55 (§ M.2.1). The cost/price evaluation would assess “price reasonableness, balance, affordability, and realism (where identified).” *Id.* at 56 (§ M.2.3). A total evaluated price (TEP) would be used to determine the lowest-priced technically acceptable offeror for award.

Offerors were directed to complete entries in a contractor labor mix spreadsheet, which specified the responsibility levels and position descriptions for roughly 60 labor categories. Offerors were directed to enter an hourly labor rate for each labor category for eight fiscal years (FY); from FY 2020 through FY 2027. The spreadsheet instructions advised:

In utilizing the CPFF [cost-plus fixed fee] rates for future awards, nothing higher than the proposed CONUS [continental United States] rates herein will be used for formation of fixed fees. The estimated amount may vary based on expected incurred cost (cost realism), but the awarded rates will be contractually binding “not to exceed” (NTE) rates for formation of fixed fees. Deviations will only occur at the government’s sole discretion[.]

AR, Tab 32, Final Contractor Labor Matrix, “Instructions” Sheet (cell B6).

The spreadsheet also directed offerors to specify three pieces of information (stated as a percentage) for each year: a fee percentage, to be applied to cost-plus fixed fee CLINs; a profit percentage, to be applied to fixed price CLINs; and a facilities capital cost of money percentage rate “(if applicable, already included in burdened rates above).” *Id.*, at “Contractor Labor Rate Matrix” Sheet (cell B65). The RFP instructed

¹ As issued, the solicitation was identified as RFP No. FA8217-19-R-5003. The agency explains that conversion to beta.SAM.gov from FBO.gov delayed the solicitation and, on December 20, the solicitation was given RFP No. FA8217-20-R-5000. Agency Report (AR), Tab 1, Contracting Officer’s Statement (COS) at 3.

offerors not to modify the spreadsheet other than to enter labor rates and percentages, and went on to provide two notes regarding the percentage rates:

All labor hour rates shall be CONUS burdened rates, and include all indirect labor, general & administrative (G&A), facilities capital cost of money (FCCOM) costs, general & administrative (G&A), facilities capital cost of money (FCCOM) costs [sic] (as applicable).

Do not include profit/fee in the CONUS burdened rates. These will be included separately as a percentage below the rate table. Also include the percentage of FCCOM (if applicable) in the rates to ensure that the limitations of FAR [Federal Acquisition Regulation] 15.404-4(c)(4)(1)(i)(c) are not exceeded for the CPFF portions[.]

Id., Instructions sheet, at cells B4 to B5.²

The RFP described the calculation of each offeror's TEP:

The government will take one composite NTE rate per labor category per year and will apply to all members of the offeror's team (including the prime offeror, inter-divisions, and all subcontractors). No additional labor rate categories will be evaluated for award. . . .

The TEP will consist of the Contractor's firm-fixed and cost plus fixed fee fully-loaded labor hour rates submitted in the matrix, with profit/fee separately added (as appropriate) and multiplied by the government pre-determined generated notional data for all years including the outlying year (FY27). Details of this method and Government developed notional hours/quantities/labor mix will not be revealed to the offeror, but the method will be applied consistently and equally to each offer. All offers will be evaluated on the same basis.

Once an Offeror's price has been determined based on the CONUS rates submitted, section B will be filled out per CLIN, for all years by the United States Government. The total evaluated price will be calculated by adding the total amount of all total all CLIN totals for all years. Note: This will include the CLINs for all years, including the option CLIN 0012 and outlying year (FY27). The government will exclude CLIN X006, X007, X008 and X013 from the TEP for evaluation purposes only.

AR, Tab 35, RFP amend. 2, at 56 (§ M.2.3)

² The citation appears to refer to FAR 15.404-4(c)(4)(i)(C), which specifies that "the fee shall not exceed 10 percent of the contract's estimated cost, excluding fee" (other than in two exceptions that do not appear to apply here).

The Air Force received proposals from five offerors, including Tactical. The Air Force explains that, as described in the RFP, the cost/price evaluation applied a specific labor mix and levels of effort to each offeror's proposed rates to calculate the offeror's TEP. To accomplish this, the agency took historical levels of effort for each labor category and "randomized [the data] with a 10 [percent] standard deviation for each labor category on each Contract Line Item Number (CLIN)." MOL at 7. The agency then used an electronic spreadsheet to apply the resulting levels of effort to each offeror's hourly labor rate for each evaluated CLIN for fiscal years 2020 through 2027, and an additional CLIN 12 for the 6-month option using the fiscal year 2027 rates. *E.g.*, AR, Tab 44, Tactical Initial Proposal Total Evaluated Price Spreadsheet Matrix.

After evaluating the initial proposals, the Air Force opened discussions with all offerors and requested revised proposals. The agency held additional rounds of discussions, and ultimately requested and received final proposal revisions (FPR). MOL at 4. In evaluating the FPRs, the agency determined that the price evaluation spreadsheet had calculated the six-month option twice, first as part of applying the full-year level of effort to fiscal year 2027 rates across each of the evaluated CLINs, and a second time by separately calculating the cost of the six-month option as CLIN 12. To correct the error, the agency revised the spreadsheet by eliminating the calculation of CLIN 12. AR, Tab 63, Tactical FPR TEP Spreadsheet; COS at 7.

On July 13, 2020, the Air Force notified Tactical that the agency had awarded the contract to Filius as the lowest-priced technically acceptable offeror. AR, Tab 78, Letter from Contracting Officer to Tactical, at 1. The award notice stated that Tactical's TEP was \$72.7 million, while Filius's TEP was \$70.6 million. After receiving the award notice, Tactical filed an agency-level protest. The Air Force denied Tactical's protest on August 18, and Tactical filed this protest with our Office.

DISCUSSION

Tactical raises numerous objections to Air Force's price evaluation--specifically, the calculation of Tactical's TEP--all of which argue that the protester's final TEP should have been approximately 13 percent lower than the TEP for its first revised proposal, which would have made Tactical's proposal lower priced than Filius's.³ Tactical asserts that the price evaluation was inconsistent with "industry-standard accounting, Generally Accepted Government Auditing Standards [], or Defense Contract Audit Agency [] guidance[.]" As a result, Tactical contends that the contracting officer and evaluators should have obtained expertise to assist in the price evaluation. Protest at 1-2.

³ Tactical also contends that the RFP did not provide sufficiently detailed information about the calculation of TEPs for offerors to prepare competitive proposals. Protest at 2. This contention is untimely because it alleges that the RFP was inadequate or defective, and such allegations must be raised before the due date for submission of initial proposals in order to be timely. 4 C.F.R. § 21.2(a)(1). Initial proposals were due January 6, 2020. COS at 3.

The Air Force argues that it conducted the price evaluation in a manner consistent with the solicitation. Specifically, it established an estimated level of effort for each labor category for each CLIN, multiplied those estimates by the offeror's rates for each fiscal year, calculated a TEP by adding the results for all labor categories and all FYs, and applied either the offeror's proposed fee percentage or profit percentage, depending on the CLIN.⁴ Nevertheless, the Air Force acknowledges that its calculation of TEPs during early stages of the procurement was erroneous. Specifically, as noted above, in the early stages, the spreadsheet calculated the FY2027 price for each CLIN at a full year level of effort, but the spreadsheet added an additional six months of services at FY2027 rates to represent the six-month option. To correct this, the Air Force explains that in calculating TEP's for FPRs, the agency eliminated the six-month option calculation of CLIN 12. Ultimately, the Air Force argues, the calculation of TEPs was equal, rational, and consistent with the RFP. MOL at 7-8; COS at 20-23.

In reviewing a protest of an agency's evaluation of proposals, our Office will examine the record to determine whether the evaluation was reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. *TransAtlantic Lines, LLC*, B-411846.3, B-411846.4, May 18, 2016, 2016 CPD ¶ 148 at 7 (denying protester's challenge to the calculation of proposed prices). Based on our review of the record, none of Tactical's allegations show an error in the price evaluation.

Fundamentally, Tactical connects the central claim that its TEP should have decreased by 13 percent from its first revised proposed to its FPR to a reduction in its fee and profit percentages. Tactical argues that it lowered its fee percentage and profit percentage from 1.26 percent and 1.30 percent (respectively) in its first revised proposal to 1.13 percent each in its FPR. Using calculations that are themselves flawed—for example, Tactical's apparent failure to recognize the difference between a fee of 1.26 percent and a fee of 26 percent (shown in its calculations as a 1.26 factor)—Tactical insists that by reducing these two percentage rates slightly, its price should have been reduced substantially. To justify that conclusion, Tactical provides the following example: a labor category with an hourly rate of \$100, to which Tactical applies its fee of 1.26 percent and profit of 1.30 percent (taken from its first revised proposal) generates the following result by Tactical's calculations:

$$\$100 \times 1.26 \times 1.30 = \$163.80^5$$

Tactical asserts that an hourly rate of \$163.80 is therefore "the new total after fee and profit have been added." By the same method, Tactical then argues that when its FPR

⁴ For fixed-price CLINs, like CLIN 1, the Air Force applied the offeror's profit percentage to its total labor price each year, whereas for cost-plus fixed fee CLINs it applied the offeror's fee percentage to its total labor price each year.

⁵ For the record, to multiply a number by 1.26 percent, the calculation should instead be \$100 x 0.0126.

reduced both the fee percentage and the profit percentage to 1.13 percent, their application to the \$100 hourly labor rate would be calculated as follows:

$$\$100 \times 1.13 \times 1.13 = \$127.69$$

Tactical argues that comparing the two examples shows that reducing its fee and profit from 1.26 and 1.3 percent to 1.13 percent each resulted in the example labor rate decreasing by \$36.11, or around 22 percent.⁶ The failure of the Air Force's spreadsheet to produce a similar result, in Tactical's view, is sufficient to demonstrate that the price evaluation was improper.

Tactical's arguments and sample calculations do not show any error in the agency's TEP calculations.⁷ Our review shows that the spreadsheets include the specific labor mix and levels of effort for each CLIN that was included in the TEP calculation, their application to the hourly rates proposed by Tactical, and the application of the fee percentage and profit percentage to the CLIN totals for each year. Neither Tactical's comments on the agency report nor our own review has identified any errors in the agency's spreadsheet calculations.⁸

Nevertheless, Tactical also challenges the change to the TEP calculation which the Air Force concedes it made to correct the TEP calculation for FPRs by eliminating the double-counting of the optional six-month extension of the ordering period. However, even assuming that Tactical could show that the Air Force change contains an error in logic, Tactical has not provided a basis to sustain the protest. Competitive prejudice is an essential element of a viable protest, and where the protester fails to demonstrate prejudice, our Office will not sustain a protest. *Next Tier Concepts, Inc.*, B-406620.3,

⁶ Tactical's illogical calculations in its protest filings first showed a 22 percent difference in price, rather than what it had claimed would be a 13 percent decrease. Tactical then provided a second example calculation that used a different methodology to produce different results: a total price of \$2043 for the first revised proposal, and \$1808 for the FPR. AR, Tab 42, Tactical's First Revised Proposal Pricing Spreadsheet; AR, Tab 62, Tactical's FPR Pricing Spreadsheet.

⁷ The agency report that Tactical received included the electronic spreadsheets that the Air Force had used to calculate Tactical's TEP, including the TEP calculations for both Tactical's first revised proposal and its FPR.

⁸ A comparison of the hourly labor rates proposed by Tactical in its first revised proposal to the corresponding rates in its FPR appears to show that Tactical revised some rates significantly. For instance, for the FY 2020 rates, one quality control labor category hourly rate increased from \$36.17 in the first revised proposal to \$77.10 in the FPR. On the other hand, in one of the multiple engineer labor categories Tactical's hourly rate decreased from \$75.12 to \$33.54 (which also resulted in the position having a lower hourly rate in the FPR than the more junior labor engineer category). *Compare* AR, Tab 42, Tactical's First Revised Proposal Pricing Spreadsheet *with* AR, Tab 62, Tactical's FPR Pricing Spreadsheet.

B-406620.4, Nov. 13, 2012, 2013 CPD ¶ 5 at 4. Based on our review of the record, we conclude that the change was implemented to correct a miscalculation, and the change was applied evenly to the prices of all offerors. As a result, even if Tactical could show that the change to the TEP calculation reflected a logical error on the part of the Air Force, Tactical has not shown a basis to conclude that, but for the error, it would have had a lower TEP than Filius. As a result, we have no basis to sustain the protest.

The protest is denied.

Thomas H. Armstrong
General Counsel