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Decision

Matter of: Torres Advanced Enterprise Solutions, LLC

File: B-403036

Date: August 18, 2010

A. Jeff Ifrah, Esq., Jeffrey R. Hamlin, Esq., and Steven Eichorn, Esq., Ifrah PLLC; and Alison L. Doyle, Esq., McKenna Long & Aldridge LLP, for the protester. Joseph D. West, Esq., Owen E. Whitehurst, Esq., and Christyne K. Brennan, Esq., Gibson, Dunn & Crutcher LLP, for Triple Canopy, Inc., the intervenor. Peter F. Pontzer, Esq., Department of the Army, for the agency. Jonathan L. Kang, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the issuance of a task order is denied where the agency reasonably concluded that the awardee was technically acceptable.
2. Protest challenging agency's failure to consider an inspector general report issued by a different agency concerning the awardee's performance on another contract is denied where the solicitation did not provide for the evaluation of past performance.

DECISION

Torres Advanced Enterprise Solutions, LLC, of Arlington, Virginia, protests the issuance of a task order to Triple Canopy, Inc., of Herndon, Virginia, under task order request (TOR) No. W91GDW-09-D-4033-0006 for the performance of security services at Contingency Operation Station (COS) Kalsu, Iskandariyah, Iraq, issued by the Department of the Army. The protester argues that the agency unreasonably concluded that the awardee's quotation was technically acceptable.

We deny the protest.

BACKGROUND

The TOR was issued on May 3, 2010 to firms who hold contracts under the Army's Theater Wide Internal Security Services II indefinite-delivery/indefinite-quantity contract for security guard services for U.S. military installations in Iraq. The TOR

sought quotations for security services at COS Kalsu, and anticipated issuance of a fixed-price task order with a base period of 1 year with two 6-month options. Torres is the incumbent contractor providing security services at COS Kalsu.

The TOR stated that the task order would be issued to the contractor that submitted the lowest priced, technically acceptable quotation. TOR at 1. The TOR stated that, to be technically acceptable, a quotation must include: (1) a mobilization plan that met the timeline set forth in the performance work statement (PWS), and (2) a manning chart that met the staffing requirements of the PWS. *Id.* at 1-2. The mobilization timeline required vendors to transition security personnel within 30 days and dog handling teams within 60 days. *Id.* at 1. The TOR identified 14 points to be addressed in a vendor's mobilization plan, including, as relevant here, a "transition timeline," and a "plan for integrating with and shadowing the incumbent contractor/military unit." *Id.* at 2. The TOR did not require contractors to submit past performance information and did not identify past performance as a factor to be considered in the agency's award decision.

The Army received quotations from four contractors, including Torres and Triple Canopy, by the closing date of May 19. The agency found that all four contractors' quotations were technically acceptable. Agency Report (AR), Tab 14, Selection Decision, at 3-4. Triple Canopy and Torres proposed the lowest prices, of \$13,023,610 and \$15,521,194, respectively. *Id.* at 7. On May 31, the Army selected Triple Canopy for the task order, based on its technically-acceptable, low-priced quotation. The agency provided a debriefing to Torres on June 3, and this protest followed.

DISCUSSION

Torres argues that Triple Canopy's quotation was technically unacceptable based on deficiencies in its mobilization plan.

The evaluation of a vendor's proposal or quotation is a matter within the agency's discretion. *Ball Aerospace & Techs. Corp.*, B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 9. In reviewing a protest against an agency's evaluation, our Office will not reevaluate quotations but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. See *IPlus, Inc.*, B-298020, B-298020.2, June 5, 2006, 2006 CPD ¶ 90 at 13. A protester's mere disagreement with the agency's judgment in its determination of the relative merit of competing quotations does not establish that the evaluation was unreasonable. *VT Griffin Servs., Inc.*, B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4.

Mobilization Plan Evaluation

The protester argues that the awardee's mobilization plan did not address the TOR requirement to provide a "plan for integrating with and shadowing the incumbent contract/military unit." TOR at 2.

The agency found that Triple Canopy's mobilization plan met all of the requirements of the TOR. AR, Tab 14, Selection Decision, at 3-4. Triple Canopy's quotation provided a timeline which showed dates for "[i]nitial shadowing" of the incumbent workforce, a "[l]eft seat/right seat transition" with the incumbent, and an "[a]ssumption of 50% guard posts" prior to the date for full transition. AR, Tab 8, Triple Canopy Quotation, at 3. The awardee's quotation provided a narrative description of its integration and shadowing plan. *Id.* at 7.

The protester argues that the awardee's plan was unacceptable because it did not "address how Triple Canopy will develop site-specific orders, plans and procedures, all of which are essential to the effective transition and performance of the task order." Supp. Protest., July 19, 2010, at 3. The protester also argues that the awardee's plan did not address "security protocols and strategies and the allocation for personnel resources [that] must be developed and vetted before transitioning fully to contract performance." Protester's Supp. Comments, August 2, 2010, at 2. The TOR, however, does not include any of these requirements; instead, the TOR required a "plan for integrating with and shadowing the incumbent contract/military unit." TOR at 2. We think that the agency reasonably concluded that the awardee's quotation addressed the requirements of the TOR. To the extent that Torres argues that vendors should have been required to provide a more detailed mobilization plan than that specified in the TOR, or that the awardee's mobilization plan was unacceptable, the protester's disagreement with the agency's judgment provides no basis to sustain the protest.

Next, the protester argues that the awardee's proposed mobilization plan did not provide adequate time for its advance team to prepare for transition. As discussed above, vendors were required to submit a transition timeline detailing how their mobilization plan would meet the required transition deadlines. Triple Canopy's quotation stated that a five-person advance team would arrive on site 2 days before the commencement of the contract transition period. AR, Tab 8, Triple Canopy Quotation, at 2-3.

The Army technical evaluator noted that the awardee's advance team would deploy 21 days following notice to proceed, and that the achievement of transition of personnel within 30 days, as required by the PWS, "could be problematic." AR, Tab 13, Technical Evaluator Summary, at 1. Notwithstanding this concern, the technical evaluator concluded that the awardee's transition plan was acceptable. *Id.* In the award decision, the contracting officer noted that the technical evaluator had identified that Triple Canopy's approach could be "problematic," but also concluded

that the approach was nonetheless technically acceptable. AR, Tab 14, Selection Decision, at 3.

While the protester expresses the view that a 2-day period for an advance team is not sufficient to prepare for transition, the TOR did not require a minimum time for such activity. Moreover, the protester does not explain why such a timeframe was unacceptable, aside from its view that the awardee “cannot possibly prepare for the transition” in that amount of time. Supp. Protest at 4. With regard to the technical evaluator’s comment that the timing for the awardee’s advance team “could be problematic,” the protester essentially argues that the concern should not have led the contracting officer to conclude that Triple Canopy’s mobilization plan was, overall, technically acceptable. We think that Torres’ arguments amount to mere disagreement with the agency’s judgment, and therefore do not provide a basis to sustain the protest.

Consideration of Past Performance Information

The protester also argues that the agency failed to consider information concerning the awardee’s performance of a contract awarded by the Department of State (DOS) for security services at the U.S. Embassy in Baghdad, as detailed in a report issued by the DOS’s inspector general (DOSIG). The Army responds that the TOR did not provide for the evaluation of past performance, and that there was therefore no reason to consider any vendor’s record of performance. We agree with the agency.

In July 2005, Triple Canopy was awarded a contract by the DOS to provide security services at the Baghdad Embassy. In March 2010, the DOSIG issued a report concerning DOS’s oversight of security contractors, including, in particular, Triple Canopy. DOSIG Report, Mar. 2010, available at: <http://oig.state.gov/documents/organization/140420.pdf>. The technical evaluator and contracting officer state that they were not aware of the DOSIG report. Decl. of Technical Evaluator ¶ 4; Decl. of Contracting Officer ¶ 4.

The protester argues that, because the DOSIG report was a public document, the agency should have been on notice of the awardee’s performance of the Baghdad Embassy contract. The protester argues that the DOSIG report identifies weaknesses with Triple Canopy’s performance of the contract regarding the level of English-language proficiency amongst the guard staff. For this reason, the protester contends that the agency should have concluded that the awardee’s proposed technical approach for the COS Kalsu task order would not meet the TOR requirement to provide personnel who are fluent in English.

We think that the protester’s argument here is, essentially, a complaint that the agency should have considered the awardee’s past performance. Because the TOR did not provide for the evaluation of past performance as part of the evaluation here, we find this argument without merit.

In any event, we disagree with the protester's argument that the awardee's quotation, on its face, should have led the Army to conclude that the awardee's proposed technical approach was unacceptable. The protester notes that the cover letter to the awardee's quotation stated that it was "proud of [its] role providing security to the U.S. Embassy in Baghdad," and that the company will "provide the same level of support at COS Kalsu." AR, Tab 8, Triple Canopy Quotation, Cover Letter, at 1. We think that these general statements do not support the protester's argument that the awardee's quotation indicated that it will follow the exact same technical approach used to perform the DOS contract, and that the agency should have therefore investigated the technical approach employed by the awardee under that contract. Moreover, we do not think that these statements clearly indicate that Triple Canopy would result in the same performance concerns identified in the DOSIG report concerning the English-language proficiency of its security personnel. In sum we find no merit to any of the protester's arguments.

The protest is denied.

Lynn H. Gibson
Acting General Counsel