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Decision

Matter of: Harris Corporation
File: B-409869
Date: September 4, 2014

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Eric Crane, Esq., Beth Sturgess, Esq., Mark Allen, Esq., and Barbara Walthers, Esq., United States Citizenship and Immigration Services, for the agency.
Eric M. Ransom, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that the agency applied unstated evaluation criteria in its evaluation of the protester's proposal is denied where the record reflects that the challenged evaluation was premised on matters that were logically encompassed by the stated evaluation criteria.
 2. Challenge to the agency's evaluation of the protester's proposal is denied where the record shows that the evaluation was reasonable and consistent with the solicitation's evaluation factors.
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DECISION

Harris Corporation protests the exclusion of its proposal from the competitive range by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), under request for proposals (RFP) No. HSSCCG-13-R-00004, for the National Area and Transnational IT Operations and Next-Generation Support (NATIONS) task order. The task order is to be issued against a successful offeror's General Services Administration (GSA) Alliant prime contract. Harris alleges that the agency's evaluation of its proposal was unreasonable.¹

¹ The estimated value of the task order at issue is in excess of \$10 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award indefinite-delivery, indefinite-quantity contracts. 41 U.S.C. § 4106(f)(1)(B).

We deny the protest.

BACKGROUND

USCIS issued the RFP on September 11, 2013, for the purpose of issuing a task order against the successful offeror's GSA Alliant contract, for the continuation of a wide range of technology services including: service desk support, field services support including deskside support, service center services, account management, hardware incident resolution, and transition and program management. The RFP explained that the required services were to support 230 domestic and 28 overseas USCIS sites, with approximately 24,000 users, 25,000 computers, 25,000 printers and peripherals, and 1,200 servers, among other IT devices.

The RFP explained that the task order would be a hybrid consisting of cost-plus-award-fee (CPAF), fixed-price-plus-award-fee (FPAF), and cost-reimbursement contract line item numbers (CLINS). The task order was to have a period of performance of one base year (including a 2-month transition), with two one-year option periods.

The RFP provided that award would be made on a best-value basis considering five evaluation factors: (1) management approach, (2) technical approach, (3) small business participation, (4) past performance, and (5) cost/price. Among these factors, management approach and technical approach were of equal importance, and were each more important than small business participation or past performance. Small business participation and past performance were of equal importance. The non-price factors, when combined, were significantly more important than cost/price. The RFP also provided that the government intended to issue a task order without discussions, but reserved the right to conduct discussions if the contracting officer determined discussions to be necessary.

Concerning the specific requirements, the performance work statement (PWS) established that the required service desk support consisted of operating a 24/7/365 single point of contact for all technology operations support, servicing an average of 24,000 to 30,000 incoming telephone calls and 13,000 to 15,000 incoming email and fax contacts per month. For the required field services/deskside support, the PWS required that:

The Contractor shall provide comprehensive local IT equipment support for systems and other items generally considered to be IT. The Contractor's end-user support staff shall have overall responsibility, under USCIS [Office of Information Technology] management direction, for the organization's entire end-user computing environment throughout USCIS The premise of the NATIONS requirement is to provide deskside support to

meet the needs of the task order. The Contractor shall provide a staffing model that delivers the support.

RFP at 40. For the service center services, the PWS explained that the contractor is required to support six service centers--large processing centers that receive and adjudicate applications and petitions for immigration benefits--which the PWS described as "critical to the USCIS mission."² RFP at 48. For these service centers, the PWS required 24x6 (Monday-Saturday) on-site support, as well as various categories of additional support, including after-hours (Sunday) support for three service centers. Additionally, the PWS required dedicated, on-site contractor support for the daily operations of three USCIS training academies, to provide services such as outfitting up to 50 laptops per week, providing remote access, establishing student email accounts, and providing desktop support, among other tasks.

Concerning staffing approach, to be evaluated under the management approach factor, the RFP indicated that the proposals should address "the extent to which the offeror proposes a workforce with the requisite skillsets, knowledge and capabilities that demonstrates the proposed staffing is adequate and sufficient to perform the PWS requirements." RFP at 138. The RFP provided that USCIS would evaluate:

the Offeror's proposal to the extent to which it presents a staffing plan, organizational structure and model capable of supporting Program Management; extent to which the offeror proposes a workforce with the requisite skillsets, knowledge and capabilities in support of their technical solutions and plan for maintaining full staffing level[.]

Id. at 145. The RFP also provided that USCIS' evaluation would "include an assessment of the offeror's proposed labor categories and mix that details the sufficiency and adequacy as it relates to their proposed technical solution." Id.

The PWS provided that the "staffing plan" was not required to be provided with an offeror's proposal, but was to be submitted no later than 30 days after USCIS' approval of the awardee's transition plan. However, the "staffing plan," as defined in this RFP, related only to the identification of "the certification type, certification date, and percentage of dedicated staff by task area that possess certifications relevant to meeting task order requirements." RFP at 67.

² The USCIS service centers are the: California Service Center (CSC), Laguna Niguel, CA; Vermont Service Center (VSC), St. Albans, VT; Nebraska Service Center (NSC), Lincoln, NE; Texas Service Center (TSC), Dallas, TX; National Benefits Center (NBC), Lee Summit, MO; and National Records Center (NRC), Lee Summit, MO.

Prior to the time set for receipt of proposals, USCIS issued questions and answers (Q&A) concerning the RFP. As relevant here, the Q&A included a question concerning the submission of the staffing plan, which inquired “whether the staffing plan and project management plan are to be submitted with the proposal or whether addressing the indicated topics specified is sufficient.” RFP, Amendment 1, at 10. The agency responded, “Proposal should include a Project management plan.” Id.

Harris was among the offerors that submitted timely proposals on October 24, 2013. After an initial evaluation, Harris’ proposal was rated acceptable for management approach and technical approach, good for small business participation, and outstanding for past performance. After reviewing the initial evaluation results for all offerors, the contracting officer determined that discussions were necessary.

In establishing a competitive range, the contracting officer noted that only three offerors had received a rating higher than acceptable for either of the two most important evaluation factors--management approach and technical approach. In an email concerning the agency’s decision to establish a competitive range, the USCIS’ technical evaluation committee (TEC) also found that the lower-rated proposals had a common, significant flaw--failure to understand the importance of the field operations and service centers support. In this regard, the evaluators found that these proposals focused on descriptions of how they would support the service desk requirements and implement process improvements or other enhancements, but failed to provide similar attention to the field support and service center support requirements. The contracting officer therefore determined to select for the competitive range the three proposals that were more highly rated under the management approach and technical approach factors.

On May 13, 2014, Harris received a pre-award notice that its proposal was not among the most highly rated proposals and was no longer being considered for award. The notice provided that while pre-award debriefings were not required under the procurement, the contracting officer was prepared to provide a pre-award debriefing, if requested. Harris requested a debriefing, which it received on May 19.

During the debriefing, the agency explained, in part, that “the primary reason for not considering your proposal further is centered on the staffing model.” Protest, Exhibit 8, Debriefing, at 1. As relevant to the following discussion, the debriefing reviewed several weaknesses in Harris’ staffing model. First, the evaluators assigned a weakness because although Harris’ proposal indicated approximately [DELETED] FTEs for field services, it did not identify the specific sites where the personnel would be located, which prevented the evaluators from determining whether the staffing model would adequately support the high number of VIPs in the National Capital Region and also fulfill the requirements of the PWS for all other locations. Second, Harris’ staffing model for service center support also did not elaborate on fulfillment of the required on-site staffing, and presented only an

overall staffing level of [DELETED]. Third, Harris' proposal did not identify the number of on-site support personnel for the USCIS training academies. Subsequent to this debriefing, Harris filed the subject protest with our Office on May 27.

DISCUSSION

Harris raises various arguments concerning the agency's exclusion of its proposal from the competitive range. However, based on the record of the evaluation findings and competitive range determination, which illustrate that the proposed staffing models were the primary discriminator in determining the proposals selected for the competitive range, this decision focuses on Harris' allegations concerning the agency's evaluation of its staffing.³

In this regard, Harris asserts that the agency's criticisms of its staffing, as set forth in the debriefing, were unreasonable or based on unstated evaluation criteria. Generally, Harris argues that USCIS went beyond the evaluation criteria set forth in the proposal where "the RFP did not indicate that USCIS would evaluate the proposed physical location of the staff on a site-by-site basis . . . because the successful offeror would be required to provide a Staffing Plan after award." Protest at 15.

More specifically, Harris asserts, concerning field services, that, because the RFP did not require a site-by-site breakdown of field services personnel or VIP support personnel, the agency imposed an unstated evaluation criteria when it "require[d] that Harris identify the physical location of all Field Service staff aligned to the 230 USCIS sites," and VIPs. Protest at 14. Similarly, Harris argues that the agency imposed additional unstated evaluation criteria in evaluating Harris's staffing for the service center support sites, where the RFP did not require identification of service

³ Concerning the additional arguments presented by the protester but not addressed in this decision, we have reviewed the record and concluded that they do not provide a basis on which our Office would sustain the protest. For example, Harris alleges that the agency was prohibited from excluding offerors from the competitive range where the RFP's Q&A indicated that there would not be a "downselect." The term "downselect" does not, however, relate to the establishment of a competitive range. Rather, it concerns a process by which a contractor is foreclosed from receiving additional task orders under a previously awarded contract. Moreover, to the extent Harris perceived an ambiguity between the RFP's reservation of the right to conduct discussions and the Q&A response that there would be no downselect, the ambiguity was apparent prior to the time set for receipt of proposals. Our Bid Protest Regulations specifically require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals be filed before that time. 4 C.F.R. § 21.2(a)(1) (2014).

center support personnel on a site-by-site basis. Additionally, Harris contends that the agency's evaluation of its field services staffing was unreasonable where its proposal included [DELETED] FTEs for field services--not [DELETED], as evaluated by the agency--and where its proposal did address on-site support for the USCIS training academies.

The agency responds that underlying each of Harris' allegations is the assumption that offerors were not required to submit a staffing plan or to detail site-specific staffing within their proposals, and that any weakness assessed by the agency concerning staffing reflected the imposition of an unstated evaluation criteria. This assumption, according to the agency, is at odds with the PWS, RFP instructions, and evaluation criteria, all of which provided for evaluation of the adequacy and sufficiency of proposed staffing. Moreover, the agency disputes Harris' contention that the RFP's post-award "staffing plan" submission requirement indicated that the agency would not consider adequacy of staffing as part of the evaluation process. In this regard, the agency explains that the post-award "staffing plan" deliverable is for the limited purpose of demonstrating employee certifications, not defining the offeror's overall staffing model. The agency also argues that it did not impose requirements for additional staffing information since Harris' proposal was not found deficient in any way, but was merely found to contain weaknesses where the staffing information supplied was too general for the agency to determine the capability of the staffing to meet the PWS requirements.

In reviewing challenges to the agency's evaluation of proposals, we do not reevaluate proposals, but, rather, review the agency's evaluation to ensure that it was reasonable, consistent with the terms of the solicitation, and consistent with applicable statutes and regulations. Philips Med. Sys. N. Am. Co., B-293945.2, June 17, 2004, 2004 CPD ¶ 129 at 2. An offeror's disagreement with the agency's evaluation is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

Here, we conclude that the evaluation was consistent with the terms of the RFP, and not premised on unstated evaluation criteria. As reviewed above, the PWS requires a staffing model that delivers required field services/deskside support. RFP at 40. Regarding the submission of proposals, the RFP established that the proposals should address "the extent to which the offeror proposes a workforce with the requisite skillsets, knowledge and capabilities that demonstrates the proposed staffing is adequate and sufficient to perform the PWS requirements." Id. at 145. The RFP further advised offerors that USCIS would evaluate various aspects of staffing, including the extent to which an offeror's proposal presented a "staffing plan, organizational structure and model capable of supporting Program Management," the "extent to which the offeror proposes a workforce with the requisite skillsets, knowledge and capabilities in support of their technical solutions," and would conduct "an assessment of the offeror's proposed labor categories and

mix that details the sufficiency and adequacy as it relates to their proposed technical solution.” RFP at 145.

In this context, the protester incorrectly argues that the agency was prohibited from evaluating whether an offeror’s proposed staffing approach was adequate to fulfill the requirements of the PWS for each USCIS location, or from assigning weaknesses if an offeror’s proposal failed to provide sufficiently detailed staffing information to allow for such an assessment. Further, Harris is misplaced in its contention that the agency’s analysis was improper where the proposals were not required to include a “staffing plan” with their proposals. As the agency points out, the required post-award “staffing plan” was a specific document addressing the certifications of various personnel and did not provide for the submission of the offeror’s detailed approach to staffing to fulfill the terms of the PWS. Rather, we conclude that the offeror’s staffing model was to be provided in the proposal and evaluated by the agency. See, e.g., RFP at 40, 145.

In sum, although the RFP may not have specifically directed offerors to substantiate the adequacy of their staffing models to meet the requirements of the PWS on a site-by-site basis, the RFP did clearly provide for an evaluation of the capability of the staffing models to meet the PWS requirements, which included providing support at various USCIS field office and service center locations. In evaluating proposals, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. Independence Constr., Inc., B-292052, May 19, 2003, 2003 CPD ¶ 105 at 4. It is an offeror’s responsibility to submit a proposal that establishes its capability and the technical merits of its proposed approach, and allows for a meaningful review by the procuring agency in accordance with the evaluation terms of the solicitation. See Verizon Fed., Inc., B-293527, Mar. 26, 2004, 2004 CPD ¶ 186 at 4.

Harris next alleges that the agency’s evaluation of its management approach, and its staffing, was unreasonable. In this regard, Harris first alleges that the agency miscalculated its field services support staffing by concluding that Harris proposed “approximately [DELETED],” rather than [DELETED], FTEs. The agency responds that the TEC found Harris’ proposal confusing, could not reconcile staffing numbers in various sections of the proposal, and was unable to determine Harris’ intentions for field services support staffing.⁴

⁴ We note that the heart of the agency’s criticism in this area was not a simple matter of the number of FTEs, rather, the weaknesses stated that Harris’ proposal “provides no specific breakdown of where staff will be located. The proposal lacks sufficient detail to determine the adequacy of the staffing approach to meet [the PWS].” AR, Tab 10, TEC report, at 12. As explained above, we find the agency’s consideration of site-by-site staffing to be within the stated evaluation criteria.

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Harris' proposal explained, generally, that its staffing approach featured [DELETED]. AR Tab 9, Harris Proposal, at 69. Specific to the field services support tasks in the PWS, the proposal stated that based on metrics in the RFP, Harris had "[DELETED]." Id. at 72. The proposal also included three relevant staffing tables; one describing "Field Operations staff allocation," and two describing "[DELETED] Full Time Equivalent assigned by region." Id.

The contracting officer explained that, although the first of these tables sets forth [DELETED] staff for the field services PWS requirements, [DELETED] of these are management personnel, and another [DELETED] are described as "[DELETED]." ⁵ The second and third of the three relevant tables, providing [DELETED] staffing, also included entries for "[DELETED]," numbering [DELETED] in the second table and [DELETED] in the third, as well as a [DELETED] category describing over [DELETED] FTEs. Id. at 74, 135. However, the latter two tables represented combined [DELETED] staffing for field services, service center services, deployment services, and rapid response. In addition, these two tables did not agree as to [DELETED] staffing levels per region.

The contracting officer indicated that the TEC could not determine whether the "[DELETED]," referred to [DELETED], or reconcile the differences between the three tables. ⁶ Where it was not clear from the tables whether the [DELETED]

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Further, as addressed below, the contracting officer reasonably explained the TEC's difficulties in interpreting Harris' staffing approach.

⁵ After subtracting [DELETED] as well as the management personnel, the proposed field services technical staff is [DELETED] FTEs, which is consistent with the agency's contemporaneous finding of approximately [DELETED] FTEs for field services support.

⁶ Harris argues that our Office should afford no weight to the contracting officer's post-hoc explanation of the TEC's evaluation. Under certain circumstances, our office will accord lesser weight to post hoc arguments or analyses because we are concerned that judgments made "in the heat of an adversarial process" may not represent the fair and considered judgment of the agency, which is a prerequisite of a rational evaluation and source selection process. Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15. However, post-protest explanations that provide a detailed rationale for contemporaneous conclusions and simply fill in previously unrecorded details, will generally be considered in our review of evaluations and award determinations, so long as those explanations are credible and consistent with the contemporaneous record. ITT Fed. Servs. Int'l Corp., B-283307, B-283307.2, Nov. 3, 1999, 99-2 CPD ¶ 76 at 6.

In this case, we conclude that the contracting officer's explanations are credible,

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support category consisted of [DELETED], or something else entirely; and where the staffing assignments in the tables did not agree and could not be reconciled, we do not consider the agency's assessment of a weakness in this area to be unreasonable.

Harris next asserts that the agency unreasonably evaluated its proposed staffing for the USCIS service centers. In this area, the TEC found that the proposed staffing was not broken out by location, and that Harris' proposal of [DELETED] FTEs for services center support, without more specific information on the staffing approach, was insufficient for the TEC to determine the adequacy of the staffing to meet the PWS.

The agency explains that without location data for the [DELETED] FTEs, it evaluated the proposal against the service centers' 24x6 (Monday-Saturday) on-site staffing requirement by dividing the FTEs by the 6 centers, resulting in approximately [DELETED] FTEs per center. The TEC was not convinced that this FTE level was sufficient to provide 24x6 on-site support for the service centers, especially where several of the individual service centers are comprised of multiple buildings located miles apart. We see no basis to find this evaluation unreasonable.

Finally, Harris asserts that the agency's evaluation was unreasonable concerning its staffing of the USCIS training academies. Harris argues that it met the requirement for on-site staff at the training academies where its proposal stated that "USCIS Academy users receive dedicated IT support," and described the approach to supporting the academy requirements. AR, Tab 9, Harris Technical proposal, at 148. As addressed above, the agency did not find that Harris failed to meet a PWS requirement in this, or any other area of the evaluation. Rather, the TEC found a weakness in Harris' approach where the proposal did not identify the overall staffing level proposed for the training academies, which prevented the TEC from determining the sufficiency of the proposed approach to meet the requirements of the PWS. We see no error in the agency's assessment of a weakness where the proposal did not provide information on the number of on-site staff proposed to support the USCIS training academies.

CONCLUSION

In sum, we conclude that the agency's evaluation of the proposed staffing model's ability to meet the PWS requirements on a site-by-site, task-by-task basis, was consistent with, and logically encompassed by the evaluation criteria set forth in the

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and consistent with the TEC report's conclusions and with the contents of Harris' proposal.

RFP. Further, our review of the record here demonstrates that the weaknesses assessed against the protester's staffing approach were reasonable. Where the staffing evaluation was reasonable and consistent with the RFP, and where the staffing evaluation was the "primary reason" for Harris' exclusion from the competitive range, we see no basis to conclude that the agency's exclusion of Harris' proposal was unreasonable or otherwise improper.

The protest is denied.

Susan A. Poling
General Counsel