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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: SERAPH Inc.

File: B-297452

Date: January 12, 2006

Dale Yeager for the protester.

Daniel J. Donohue, Esq., and Elizabeth M. Gill, Esq., Wickwire Gavin, PC, for CACI Premiere Technology, Inc., an intervenor.

Audrey Roh, Esq., Department of Homeland Security, United States Coast Guard, for the agency.

Peter D. Verchinski, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Alleged misevaluation of two proposed personnel under “relevant past experience/proposed personnel” factor as lacking relevant experience did not competitively prejudice protester, and thus does not provide basis for sustaining protest, where contemporaneous evaluation record shows that protester’s proposal was not downgraded based on evaluation of the two personnel, and that proposal ultimately was eliminated from consideration for award based on evaluated deficiencies under different factor, which protester does not question.

DECISION

SERAPH Inc. protests the award of a contract to CACI Premiere Technology, Inc. under request for proposals (RFP) No. HSCG23095-R-DOT097, issued by the Department of Homeland Security, United States Coast Guard, for support services assisting the Coast Guard in developing and implementing capabilities to detect, identify, interdict and detain terrorist threats in the maritime domain. SERAPH primarily argues that the Coast Guard improperly evaluated the experience of two of its proposed key personnel.

We deny the protest.

On July 18, 2005 the Coast Guard issued a combined synopsis/solicitation for tactical operations education and training services to respond to terrorist threats in the maritime domain. The RFP contemplated the award of an indefinite-delivery/

indefinite-quantity contract for a period of 1 year, with a 1-year option period. The solicitation provided for a “best value” award based on four evaluation factors: relevant past experience/proposed personnel, understanding of the work, relevant past performance, and price. Relevant past experience/proposed personnel was the most important factor, while the two other technical factors were of equal importance; the three technical factors combined were significantly more important than price. The RFP required prices (on fixed-price or time-and-materials (T&M) bases) for 10 separate contract line item numbers (CLIN) covering various training courses and training teams.

The Coast Guard received 15 proposals. In evaluating SERAPH’s proposal under the first factor, relevant past experience/proposed personnel, the technical evaluation team (TET) assigned SERAPH an overall rating of green, which represented low risk.¹ The report explained that SERAPH’s proposed staff appears to meet or exceed the experience needed to conduct the training, but also stated that SERAPH’s chemical, biological, radiological, nuclear and explosives (CBRNE) specialist did not appear to have much experience in the CBRNE field, Agency Report (AR), Technical Evaluation Report, Tab 8, at 7, and that the boat specialist SERAPH proposed “has more of a boarding/close quarters combat background than that of a boat specialist.” Id. For the understanding of work factor, the TET assigned SERAPH’s proposal an overall rating of yellow, representing moderate risk. In this regard, the TET found that SERAPH’s proposal was not adequate to allow the team to determine whether the company fully understood the RFP. For the third factor, past performance, SERAPH received the highest rating, blue. SERAPH’s evaluated price was \$2,809,800 (the fourth lowest) for the fixed price CLINs, as compared to CACI’s price of \$3,007,305 (the fifth lowest). (These figures exclude the T&M CLINs, for which all proposals were evaluated at \$7,180,000.)

The agency made an initial determination that 11 of the proposals—including SERAPH’s—had no chance of being selected for award based on their technical ratings and prices. The proposals that remained in consideration, unlike SERAPH’s, received green or higher ratings under each of the technical evaluation factors. The Coast Guard then made a final price/technical tradeoff among the remaining four proposals, selecting CACI’s proposal on the basis that it was the highest rated of all proposals received, and the lowest priced among the remaining proposals.

SERAPH principally argues that the agency’s determination that two of its proposed personnel had limited relevant experience was unreasonable.²

¹ Possible ratings under the technical factors were blue, green, yellow, and red, in descending order of technical ability. Separate risk ratings of low, moderate, or high also were assigned under each technical factor.

² SERAPH also argues that CACI had an impermissible organizational conflict of interest (OCI) arising from its alleged participation in the preparation of the

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Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions, that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc., v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

We find that SERAPH was not prejudiced by the alleged improper evaluation of its two key personnel since, even if we agreed with SERAPH, it would not be in line for award. More specifically, the contemporaneous evaluation record shows that SERAPH's proposal was not selected for award due to the agency's evaluation conclusion that the proposal represented a moderate risk under the understanding of work evaluation factor, and not because the agency determined that SERAPH's proposed personnel had inadequate experience. In this regard, the agency specifically stated in the competitive award memorandum that SERAPH's proposed staff has the experience and training necessary to perform the contract. AR, Tab 9, at 15. While the memorandum includes the comments (stated above) concerning the two proposed personnel, the agency nevertheless concluded that "the noted risks are not significant to warrant an overall elevated risk rating." Id. In other words, SERAPH's green/low risk rating under the relevant past experience/proposed personnel factor was unaffected by the agency's observations regarding the two personnel.

The record shows that it was SERAPH's inadequately written plan to perform the work that led to the elimination of its proposal from the competition. The agency found that the discussion of the required work in SERAPH's proposal was not sufficiently defined to allow the agency to determine whether SERAPH fully understood the requirement. The competitive award memorandum specifically concluded that this deficiency—represented by a moderate risk rating under the understanding of the work factor—resulted in SERAPH's proposal no longer being considered for award. AR, Tab 9, at 25. The protester has not challenged the agency's finding of this deficiency. Given that SERAPH's proposal was eliminated from the competition on this basis, and not due to the agency's view of the adequacy of SERAPH's proposed personnel's experience, it is clear that the alleged misevaluation of the firm's proposed personnel had no effect on the award

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solicitation. However, the agency responds that CACI had no role in the preparation of the solicitation, and SERAPH has provided no evidence establishing that the agency's representations are incorrect; unsupported statements do not provide a basis for sustaining a protest. SERAPH further asserts that the award was improper because the award amount exceeded the stated ceiling price of \$7,180,800. SERAPH misunderstands the solicitation. In fact, the \$7,180,800 amount was the ceiling price only for the T&M CLINs; there was no ceiling price for the fixed-price CLINs.

decision. Accordingly, SERAPH was not prejudiced by the alleged improper evaluation. See generally Northport Handling, Inc., B-274615, Dec. 18, 1996, 97-1 CPD ¶ 3.

The protest is denied.

Anthony H. Gamboa
General Counsel