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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: William J. Brant, Jr. & Associates

File: B-406908

Date: September 26, 2012

William J. Brant Jr., Esq., for the protester.
Cameron V. Gore, Esq., and Katherine Smyth, Esq., Department of Veterans Affairs, for the agency.
Peter D. Verchinski, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's technical evaluation of protester's proposal is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

William J. Brant, Jr. & Associates (Brant), of Schererville, Indiana, protests the award of a contract to US Federal Properties Co. (USFP), of Kansas City, Missouri, under request for proposals (RFP) No. VA-101-11-RP-0175, issued by the Department of Veterans Affairs (VA) for construction and lease of an outpatient clinic. Brant challenges the evaluation of its technical proposal.

We deny the protest.¹

BACKGROUND

The RFP, issued on September 9, 2011, sought offers for the lease of approximately 95,969 square feet in a new building for an outpatient clinic in Grand Rapids, Michigan. Offerors were informed that award would be made on a best

¹ Because a protective order was not issued in connection with this protest, our discussion is necessarily general.

value basis, considering price and the following technical evaluation factors: technical quality, evidence of capability to perform prior to award, and operations and maintenance plan. RFP §§ 2.1.1-2.1.4. The technical evaluation factors combined were stated to be equal in weight to price. RFP § 2.1.

As relevant here, with respect to the technical quality factor, offerors were informed that proposals would be evaluated for the quality of their building and design concept, quality of site development, and site physical security. RFP § 2.1.2. With respect to the evidence of capability to perform factor, offerors were required to provide examples of past performance and experience of successfully building, renovating, and maintaining facilities comparable in size and complexity to project here. RFP § 2.1.3. The RFP included a past performance survey form that offerors were to fill out and return for each past performance contract, and the RFP did not provide a limit on the number of contracts that could be submitted for past performance consideration. With respect to the operations and maintenance plan factor, offerors were to provide a plan that addressed, at a minimum, interior and exterior maintenance of the building. RFP § 2.1.4.

VA received proposals from 21 offerors, including Brant and USFP. Following the evaluation of initial proposals, the agency established a competitive range composed of seven proposals, including Brant's and USFP's. The agency conducted discussions and received and evaluated revised proposals. Revised proposals were point scored by the agency's evaluators, which supported their point scores with narrative explanations. Brant's revised proposal, which was the lowest-priced, received the lowest technical score of the seven competitive range offerors. USFP's revised proposal, which was the second lowest-priced proposal, received the highest technical score. See Agency Report (AR), Tab 3, Price Negotiation Memorandum, at 24.

With respect to Brant's technical proposal, the evaluators noted a number of strengths and weaknesses under each of the technical evaluation factors. As relevant here, the evaluators noted as a weakness under the technical quality factor that Brant had removed certain columns from its building design in response to the agency's discussions with the firm concerning a discrepancy in its proposal regarding the columns. Brant provided no explanation in its revised proposal as to the structural impact of removing the columns. See AR, Tab 5, Evaluator Scoring Worksheets, at A.2, B.2-3, C.2-3, D.2, E.2-3.

Under the evidence of capability to perform factor, the evaluators noted as a weakness that Brant had limited experience in recent years with healthcare projects. In this regard, the agency noted that, although Brant's proposal indicated that it currently owns and operates seven VA facilities, its last contract with the VA appeared to be in 2004. Id. at A.10, B.13.

Under the operations and maintenance plan factor, the agency assessed as a weakness Brant's failure to indicate that it would provide a full-time, on-site maintenance person during work hours. Id. at C.12.

VA found that USPS's revised proposal was the most advantageous to the VA and made award to that firm. This protest followed.

DISCUSSION

Brant challenges the agency's evaluation of its technical proposal, arguing that the agency's assignment of the weaknesses identified above was unreasonable.² Specifically, Brant argues that the agency should have known that the columns used in its building design were merely decorative, rather than structural; that the firm had submitted sufficient experience to demonstrate that it was qualified to perform the contract; and that its proposal offered an on-site maintenance superintendent.³

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4.

The record shows that the agency's evaluation was reasonable and consistent with the stated evaluation criteria. With regard to the weakness assigned to Brant's proposal for the unexplained removal of columns, Brant does not assert that its

² Brant's initial protest raised a number of other challenges to the evaluation of its proposal based upon the firm's debriefing. Protest at 2-3. In its report, the agency addressed all of the protester's contentions. Brant's comments on the agency's report focus on the agency's assignment of weaknesses related to its removal of columns, past performance, and on-site maintenance manager. We consider the remainder of its protest to have been abandoned. See Cedar Elec., Inc., B-402284.2, Mar. 19, 2010, 2010 CPD ¶ 79 at 3 n.4. Furthermore, we note that Brant did not protest the agency's use of point scoring, or its best value judgment.

³ Brant also asserts that it was improper for the agency to evaluate its decorative improvements to the building. In this regard, the agency's evaluation had found that Brant's building design and aesthetics met the minimum requirements of the RFP, but were not exceptional (for example, Brant's building's "flow" was not "warm"). AR, Tab 5, Evaluator Scoring Worksheets, at D.2. There is no merit to this argument. The RFP plainly stated that the agency would consider design and aesthetics in evaluating proposals under the technical quality factor. See RFP § 2.1.2.A(2).

revised proposal provided an explanation as to the impact of removing the columns. Rather, Brant merely asserts that the agency should have known (based upon its other submissions) that the columns were not structural. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which allows for a meaningful review by the procuring agency. Mike Kesler Enter., B-401633, Oct. 23, 2009, 2009 CPD ¶ 205 at 2-3. We find no basis to question the evaluators' concern with Brant's removal of the columns in its revised proposal, where Brant failed to explain the removal to the agency.

With regard to Brant's past performance, the agency reasonably found that Brant's proposal demonstrated little relevant past performance for the firm. In this regard, Brant's proposal provided past performance information for a VA outpatient clinic it constructed in Baton Rouge, Louisiana, in 2004; a VA nursing home constructed in 2002; a supermarket constructed in 2006; and a gymnasium constructed in 2004. AR, Tab 7, Brant Technical Proposal, Vol. 1, Sect. 5. Although Brant argues that it had significant past performance and points to a statement in its proposal that the protester had built numerous VA facilities, Brant's proposal did not provide information for these projects.⁴

Brant also challenges the weakness evaluated in its proposal with respect to providing a full-time, on-site maintenance manager. The protester contends that it in fact proposed such a manager, pointing out that the first page of its operations and maintenance plan states that the plan uses an "onsite maintenance superintendent." See Comments at 3. That said, Brant's proposal also states that its maintenance superintendent would be available and local, see AR, Tab 7, Brant Technical Proposal, at Vol. 1, Sect. 18, at 17, causing the evaluators to question whether the superintendent would be on-site full-time. Although Brant disagrees with the evaluators' concern in this regard, it has not shown the concern to be unreasonable.

The protest is denied.

Lynn H. Gibson
General Counsel

⁴ Brant notes that its proposal contains a section describing the firm, in which Brant lists 6 outpatient clinics and 1 nursing home by location that are "a few of the Brant signatures." AR, Tab 7, Brant Technical Proposal, Vol. 1, Sect. 2, at 1. Brant, however, provided no further information about these clinics (other than the 1 clinic and the 1 nursing home mentioned above).