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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Strategic Technology Institute, Inc.

File: B-408005.2

Date: October 21, 2013

James Y. Boland, Esq., Lars E. Anderson, Esq., and Christina K. Kube, Esq., Venable LLP, for the protester.

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DIGEST

Protest of an agency's cancellation of a solicitation after receipt of proposals is denied, where the record demonstrates that cancellation was reasonable.

DECISION

Strategic Technology Institute, Inc. (STi), of Rockville, Maryland, protests the cancellation of request for proposals (RFP) No. HSCG40-13-R-51007 issued by the United States Coast Guard for analytical support services for the agency's Surface Forces Logistics Center.

We deny the protest.

BACKGROUND

The RFP, issued under the Federal Supply Schedule (FSS) procedures of Federal Acquisition Regulation (FAR) subpart 8.4, provided for a task order for analytical support services for a base year and 1 option year. Vendors were informed that the task order would be issued on a best-value basis, considering price, technical capability, and past performance. RFP at 25. The technical capability factor included the following subfactors: technical approach, management approach, and teaming arrangements. *Id.* at 26.

The RFP provided four contract line items (CLIN) for asset material managers and field terminal operators to support the small boat and patrol boat product lines, as

well as the patrol boat product line/maritime force protection unit.¹ These CLINs identified the number of full-time-equivalents (FTE) required for each category. For example, CLIN 0001 required vendors to provide their loaded labor rate for 28 full-time (1,920 hours per year) asset material managers to support the small boat production line and patrol boat product line, as described in the RFP's statement of work (SOW). The RFP also provided that the vendor's pricing must be based on the labor categories in its FSS contract. See id. at 2.

The SOW identified the asset material managers and field terminal operators as key positions, and listed specific duties. SOW § 1.3.13.3, Key Positions; § 1.5, AMM [Asset Material Manager] Specific Duties; § 1.6, FTO [Field Terminal Operator] Specific Duties. The SOW also identified the locations at which the asset material managers and field terminal operators would perform the required services. Id. § 1.3.8, AMM/FTO on-site locations and quantity chart. As relevant here, the SOW advised that the agency required vendors to provide experienced maintenance and supply data entry technicians to manage high value parts inventory, process and track procurement requests, and prepare shipping and receiving documents, as well as to support the transition to a new centrally managed and controlled logistics business model. Id. § 1.2, Scope.

The Coast Guard received proposals from six vendors, including STi. Technical proposals were evaluated by the agency's technical evaluation team (TET). The TET assigned adjectival ratings under each factor and subfactor that were supported by narratives that identified the vendors' respective strengths and weaknesses.² STi's proposal, which was the third lowest priced, was evaluated as satisfactory under the technical capability factor and its subfactors, and the firm's past performance received a confidence rating. Agency Report (AR), Tab D-2, Initial TET Evaluation Report, Feb. 6, 2013, at 11; Tab F, Abstract of Offers. In this regard, the TET identified a number of strengths and weaknesses in STi's proposal under the technical capability factor. AR, Tab D-2, Initial TET Evaluation Report, Feb. 6, 2013, at 12.

The TET recommended award to the incumbent vendor, whose proposal was the highest-rated, and highest-priced. AR, Tab D-2, Initial TET Evaluation Report, Feb. 6, 2013, at 15. The contracting officer (CO), the source selection authority for this procurement, disagreed with the TET's evaluation of STi's proposal, and

¹ The schedule also included a cost-reimbursable CLIN for travel and an unpriced CLIN for a monthly activity report. RFP at 3.

² Technical proposals were evaluated as superior, good, satisfactory, marginal, or unsatisfactory. Past performance was rated as having high confidence, significant confidence, confidence, unknown confidence, little confidence, or no confidence. AR, Tab D-1, Source Selection Plan, at 10-12.

increased STi's technical capability rating from satisfactory to good. AR, Tab D-3, Award Decision Memorandum, at 5. The CO also disagreed with the TET's award recommendation, and selected another vendor's proposal (which was also higher-rated and higher-priced than STi's) for issuance of the task order. Id. at 8.

STi protested to our Office, challenging the Coast Guard's technical and price evaluation. Following the Coast Guard's notice that it would reevaluate proposals and make a new selection decision, we dismissed STi's protest as academic. Strategic Tech. Inst., Inc., B-408005, Mar. 4, 2013.

The vendors' proposals were reevaluated by the original TET, which again recommended that the task order be issued to the incumbent vendor. In this regard, the TET again assessed STi's proposal as satisfactory under the technical capability factor, noting both strengths and weaknesses. AR, Tab D-4, 2nd TET Evaluation Report, at 11-12. The CO rejected the TET's reevaluation, "because it did not document the evaluations in compliance with the evaluation factors, which directly relate to the SOW." CO's Statement at 4. The CO established a new TET, which included two members of the original TET. AR at 3.

In the third evaluation of proposals, the TET found that STi's proposal was unsatisfactory under the technical capability factor. The TET found as a significant weakness that STi did not propose qualified personnel for the asset material manager and field terminal operator positions. AR, Tab D-5, 3rd TET Evaluation Report, at 9. The TET again recommended that the order be issued to the incumbent vendor. Id. at 13.

The CO rejected the TET's third evaluation report, concluding that the RFP's "SOW was so deficient that only an incumbent contractor, having performed the services before, would have been able to understand all requirements of the SOW." CO's Statement at 5. The CO decided to cancel the RFP and resolicit with "a revised [SOW] and refined evaluation criteria." Id. at 5-6.

This protest followed.

DISCUSSION

STi argues that the Coast Guard lacks a reasonable basis to cancel this solicitation.

As an initial matter, the Coast Guard argues that STi is not an interested party to protest the cancellation here because it would not be in line for award given that there are other vendors that are higher-rated. AR at 4. We disagree. The agency's argument about STi's standing fails to recognize that under a best value procurement, as here, an agency may select a lower-priced, lower-rated vendor (such as STi) over a higher-priced, higher-rated vendor (such as the incumbent and the CO's original awardee). In this regard, STi's lower price would require the

agency to conduct a cost-technical tradeoff to determine which vendor's proposal would be selected for award. See MSI, a Division of the Bionetics Corp., B-243974 et al., Sept. 17, 1991, 91-2 CPD ¶ 254 at 6. Although the agency conducted an earlier tradeoff, the agency abandoned that analysis in the face of STi's original protest. Likewise, the CO rejected the third TET evaluation, which found STi's proposal unacceptable.

The Coast Guard also contends that cancellation of the solicitation was proper because the SOW was so confusing that only an incumbent contractor would have been able to understand all of the requirements. AR at 3.

Under FAR subpart 8.4 procedures, an agency need only advance a reasonable basis to cancel a solicitation. See Daston Corp., B-292583, B-292583.2, Oct. 20, 2003, 2003 CPD ¶ 193 at 3. Where an agency concludes that cancellation is warranted on the basis of ambiguous or inadequate specifications, our Office will not disturb that determination unless it is shown to be arbitrary, capricious, or not supported by substantial evidence. Canadian Commercial Corp./Ballard Battery Sys. Corp., B-255642, Mar. 18, 1994, 94-1 CPD ¶ 202 at 4.

The record shows that the cancellation of the solicitation occurred under a very unusual set of facts. Although the protester alleges that the agency's rationale for cancellation is but a pretext to formulate a solicitation where only the incumbent can prevail, see Comments at 24, we see no pretext here. See generally, SMF Systems Tech. Corp., B-292419.3, Nov. 26, 2003, 2003 CPD P 203. Rather, the record indicates that the agency intends to refine the SOW and the solicitation to increase the likelihood that vendors other than the incumbent can prevail in this competition. See CO's Statement at 9.

Moreover, the facts here highlight the agency's inability to reasonably assess the merits of respective offers under the solicitation. That is, the record demonstrates that the TET and the CO were unable to agree on an interpretation of the solicitation that would allow the agency to evaluate proposals. Three times the TET evaluated proposals and selected the incumbent. Each time, the CO disagreed with the judgments of the TET, despite replacing the majority of the TET for the third evaluation. Under the circumstances presented here, we cannot say that the CO's decision to cancel the solicitation and to resolicit under an amended solicitation was unreasonable.

The protest is denied.

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General Counsel