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Decision

Matter of: InTec, LLC
File: B-408178.4
Date: February 12, 2014

Bruce Donaldson for the protester.
Peter B. Ford, Esq., and Antonio R. Franco, Esq., Piliero Mazza PLLC, for The Red Gate Group, Limited, an intervenor.
Stephan Piel, Esq., and Janet Repka, Esq., Department of Defense, for the agency.
Cherie J. Owen, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency improperly downgraded vendor's quotation under experience factor is denied where the quotation failed to clearly demonstrate the preferred experience as defined in the solicitation.

DECISION

InTec, LLC, of Fairfax, Virginia, protests the Department of Defense, Washington Headquarters Service's award of blanket purchase agreements (BPA) to Azimuth Corporation, of Dayton, Ohio; Ian, Evan & Alexander Corporation, of Ashburn, Virginia; The Red Gate Group, Limited, of Chantilly, Virginia; Redhorse Corporation, of San Diego, California; and Winbourne & Costas, Inc., of Arlington, Virginia, under request for quotations (RFQ) No. HQ0034-13-R-0010, for professional, technical, analytical, and administrative services. InTec contends that the agency's evaluation of its proposal was unreasonable.

We deny the protest.

BACKGROUND

The RFQ, issued on February 14, 2013, contemplated issuance of up to five BPAs for professional, technical, analytical, and administrative services to assist the Office of the Under Secretary of Defense (Intelligence) in the areas of worldwide

counterintelligence, security, intelligence, surveillance, and reconnaissance missions.¹ RFQ at 4. The solicitation was issued pursuant to Federal Acquisition Regulation (FAR) Part 8.405-3, and was set aside for service-disabled, veteran-owned small businesses. The solicitation sought quotations from firms holding Federal Supply Schedule (FSS) Special Item Number 874-1 (integrated consulting services) contracts. The RFQ provided that the maximum value of all the BPAs would be \$500 million. Id.

InTec was one of five vendors initially selected for issuance of BPAs in March 2013. The selection was protested to our Office by Universal Strategy Group, Inc. and PatchPlus Consulting, Inc. and we dismissed the protests after the agency informed us of its intent to take corrective action (B-408178, B-408178.2, May 7, 2013). The agency then amended the RFQ, sought and evaluated new quotations, and made a new selection decision.

The RFQ, as amended, provided that the BPAs would be established on a “best value” basis considering the following three evaluation factors: experience, past performance, and price. Experience was more important than past performance, and these two factors combined were significantly more important than price.

With regard to the experience factor, vendors were permitted to cite no more than five contract examples that demonstrated their relevant experience. In this regard, the solicitation stated that “[t]here may be more than one contract number provided per experience, but only if the subsequent contract number(s) is for requirements that are a continuation of the identical requirements.” RFQ at 47. The solicitation also emphasized that international experience was highly preferred, as some task orders issued under the BPA will require international performance. In this regard, the solicitation specified that “a submitted experience is considered to be international experience where contractor personnel performed for an extended period of time while physically at a location outside of the United States.” RFQ at 48. An “extended period of time” was defined as “three months or more.” AR, Tab 2, Questions and Answers (Q&A), at 53. In addition, the solicitation stated that experience as a prime contractor on a contract valued at \$8 million or more was highly preferred. RFQ at 49.

The agency received 13 responses, including InTec’s, by the June 14, 2013 closing date. The agency assigned InTec’s quotation a “pass” rating for technical acceptability, a “marginal” rating for experience, and a “high” rating for past performance. AR, Tab 5, Technical Evaluation, at 127. With regard to InTec’s experience, the evaluators noted that the quotation did not demonstrate InTec’s experience as a prime contractor with top secret/sensitive compartmented

¹ The agency report was submitted with Bates numbering; this decision’s citations to the record include references to the appropriate Bates numbers.

information (TS/SCI). Technical Evaluation at 134. The evaluators also found that the quotation failed to demonstrate either international experience or prime experience managing a contract of \$8 million or more.

Based on the evaluation of the quotations, the agency selected five vendors to receive BPAs, but not InTec. This protest followed.

DISCUSSION

InTec raises several challenges to the agency's assignment of a marginal rating under the experience factor. Specifically, the protester contends that the agency erroneously concluded that the firm lacked experience as a prime contractor on a contract valued at \$8 million or more and lacked international experience.

Where an agency conducts a formal competition for the establishment of a BPA, we will review the agency's actions to ensure that the evaluation was reasonable and consistent with the solicitation and applicable procurement statutes and regulations. The Clay Group, LLC, B-406647, B-406647.2, July 30, 2012, 2012 CPD ¶ 214 at 8; OfficeMax, Inc., B-299340.2, July 19, 2007, 2007 CPD ¶ 158 at 5. In reviewing protests of alleged improper evaluations and source selection decisions, it is not our role to reevaluate submissions; rather, we will examine the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. The Clay Group, LLC, supra. Here, we find the experience evaluation to be reasonable.

First, InTec challenges the agency's conclusion that the firm's quotation failed to demonstrate experience as a prime contractor on a contract of \$8 million or more. Specifically, InTec cites the second of five experience listings in its quotation, which stated that InTec performed as a subcontractor (with an approximately \$24 million contract (No. [DELETED])) on the [DELETED] project, a [DELETED] procurement for [DELETED]. AR, Tab 4, InTec Quotation, at AR0074. Under the same, [DELETED] "experience" listing, InTec also referred to another contract, with a different contract number, labeled the [DELETED] project, described as follows:

[DELETED]

Id. at AR0075. InTec contends that the agency unreasonably determined that this "follow-on" contract did not demonstrate prime contract experience on a contract valued at \$8 million or more.

We disagree. As set forth above, the solicitation limited the total number of contract experiences to five, and permitted evaluators to consider more than one contract number per experience, "only if the subsequent contract number(s) is for requirements that are a continuation of the identical requirements." RFQ at 47 (emphasis added). Thus, the solicitation language made clear to vendors that, in

order to be considered under the same experience listing, contract requirements had to be identical, not just similar. Further, the protester itself admits that the follow-on prime contract “involved requirements for managing the contract which are not found in the subcontract . . . [therefore] the InTec response could not factually say ‘identical.’” Protest at 6. Since the solicitation made clear that multiple contracts would be considered under the same experience listing only if the two contracts involved identical requirements, but InTec did not make clear that the requirements of the two contracts were identical (and, in fact, admits that they are not), we find the agency’s judgment in this regard to be reasonable.

InTec also challenges the agency’s determination that the firm failed to demonstrate international experience. In this regard, InTec notes that its quotation stated with respect to the [DELETED] contract that “[DELETED].” See InTec Quotation at AR0076. The protester asserted in its protest that, “[t]he word ‘deployed’ in our response meant the full time range of overseas support, from weeks to months.” Protest at 7. In addition, InTec notes that elsewhere in the experience volume of its proposal, apart from the five listed contract experiences, it referred to other international experience, including that of its proposed subcontractor [DELETED] (“Extensive OCONUS [outside the Continental United States] Deployment Experience”). See, e.g., InTec Quotation at AR0069. InTec argues that, therefore, the references in its quotation should have been sufficient to demonstrate international experience for an extended period of time.

As set forth above, the solicitation stated that international experience was highly preferred. For purposes of evaluating whether a vendor had international experience, the RFQ specified that an experience would be considered to be international experience only where contractor personnel were physically at a location outside of the United States for a period of “three months or more.” RFQ at 48; AR, Tab 2, Questions and Answers (Q&A), at AR0053. In evaluating whether InTec’s quotation demonstrated international experience, the agency evaluators noted that InTec’s personnel were deployed outside the United States while performing the [DELETED] contract, but determined that this reference was not sufficient to demonstrate that InTec’s personnel were deployed for “extended periods of time” as defined in the RFQ, (that is, three months or more). AR, Tab 5, Technical Evaluation Document, at 135.

We find the agency’s evaluation in this regard to be reasonable. InTec’s quotation failed to clearly demonstrate that it possessed international experience, as that term was defined in the RFQ. By its own admission, the word “deployed” as used in InTec’s quotation with respect to the [DELETED] contract was indefinite with respect to time, since InTec “meant the full time range of overseas support, from weeks to months,” Protest at 7. In this regard, it is a vendor’s responsibility to submit a well-written quotation with adequately detailed information that clearly demonstrates compliance with the solicitation requirements. IBM Global Business Serv.--U.S. Federal, B-409029, B-409029.2, Jan. 27, 2014, 2014 CPD 43 at 8.

Given InTec's failure to specify the duration of its [DELETED] deployments, the agency reasonably concluded that InTec's quotation failed to clearly demonstrate that such experience qualified as the preferred international experience as defined in the RFQ.

As for the references in InTec's quotation to other international experience, beyond that encompassed by the permitted five listed experiences, we agree with the agency that it was precluded from considering such experience in arriving at an experience rating.² In this regard, the solicitation as amended after the corrective action provided that "[t]he agency will only evaluate experience that is demonstrated within the experience examples. No other experience that is referred to in other sections will be evaluated." RFQ (Amendment 005) § L.2(b), at AR0047. Likewise, in response to a question seeking clarification of this language, the agency responded that

Any experience attribute that a respondent wished to demonstrate must be contained within one of the five experience examples submitted within the quotation. Any other extraneous information about a company's experience will be considered as only anecdotal vice demonstrated experience.

Q&A at AR0057. In sum, we find that the agency reasonably determined that InTec's quotation failed to demonstrate the preferred international experience.

Finally, InTec claims that its competitive position was compromised by the agency's prior corrective action because its price and overall adjectival ratings were disclosed to unsuccessful offerors during the first round of this procurement. Protest at 8. Three of the unsuccessful offerors were successful in the re-competition. In this regard, the protester complains that upon taking corrective action, "there was no change to the [RFQ's] SOW or criteria for pricing . . . so knowledge of prior winning prices provided a distinct advantage to the initial group of losing bidders." Id. at 9.

The record indicates that InTec is in error about the information disclosed regarding its proposal. In this regard, the contracting officer, in a signed declaration, states that while the overall price of successful vendors was disclosed via FedBizOpps, the agency did not disclose InTec's adjectival ratings or otherwise share any of InTec's proprietary information. Contracting Officer's Statement at 5. We note in this regard that the FedBizOpps notice shows that only InTec's overall price was disclosed therein. AR, Tab 3, FedBizOpps Notice, at 60. As for InTec's concern

² Although InTec did include one contract performed by [DELETED] as one of its five contract experience examples, InTec's quotation stated that the location of performance of this work was only within the continental United States. InTec Quotation at AR0082.

that its price has been exposed, we have repeatedly recognized that the possibility that a contract may not have been awarded based on a fair determination of the most advantageous proposal has a more harmful effect on the integrity of the competitive procurement system than does the possibility that the original awardee will be at a disadvantage in a reopened procurement. Crewzers Fire Crew Transport, Inc., B-406601, July 11, 2012, 2012 CPD ¶ 204 at 8-9; Jones Lang LaSalle Americas, Inc., B-406019.2, Feb. 14, 2012, 2012 CPD ¶ 98 at 5; Partnership for Response and Recovery, B-298443.4, Dec. 18, 2007, 2007 CPD ¶ 3 at 4. In any case, with respect to the establishment of BPAs, the FAR provides that agencies shall provide unsuccessful offerors a brief explanation of the basis for the award decision. FAR § 8.405-3(b)(3). The agency's actions in providing unsuccessful offerors notice of the prices associated with the successful quotations were consistent with the FAR and unobjectionable. See Environmental Quality Mgmt, Inc., B-402123.4, B-402123.6, Aug. 31, 2010, 2012 CPD ¶ 79 at 4 (agency's actions during a preaward debriefing that were consistent with the FAR were unobjectionable).³

The protest is denied.

Susan A. Poling
General Counsel

³ In its comments on the agency report, InTec argues that the evaluation criteria outlined in the RFQ and its amendments were confusing and incoherent, such that the agency was unable to perform a rational best value analysis. We dismiss this allegation as untimely. Protests based on alleged improprieties in a solicitation must be protested prior to the closing date and time of the solicitation. 4 C.F.R. § 21.2(a)(1).