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Decision

Matter of: Rome Research Corporation

File: B-291162

Date: November 20, 2002

Louis D. Victorino, Esq., Anne B. Perry, Esq., and A. Cristina Burbach, Esq., Fried, Frank, Harris, Shriver & Jacobson, for the protester.

Marc F. Efron, Esq., Daniel R. Forman, Esq., Amy E. Laderberg, Esq., and J. Catherine Kunz, Esq., Crowell & Moring, for BAE Systems, the intervenor. Theresa A. Chesnut, Esq., and Barbara J. Amster, Esq., Department of the Navy, for the agency.

Susan K. McAuliffe, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of agency's evaluation of proposals is denied where the record shows that the evaluation was reasonable and consistent with the solicitation's evaluation scheme.

DECISION

Rome Research Corporation protests the award of a contract to BAE Systems under request for proposals (RFP) No. N00244-02-R-0028, issued by the Department of the Navy for operation and maintenance (O&M) services for the Naval Computer and Telecommunications Area Master Station Pacific. Rome challenges as unreasonable the agency's evaluation of its technical proposal under each of the solicitation's stated evaluation factors and the evaluation of the awardee's proposal under the past performance factor.¹

¹ Rome initially protested the award on additional grounds, including challenges to the agency's evaluation of the price proposals, an alleged unfair competitive advantage on the part of the awardee, and the alleged bias of an evaluator. The contracting agency and intervenor responded to these challenges. In the protester's comments on the agency's report, Rome withdrew or otherwise abandoned these contentions. Accordingly, they will not be considered further. See The Big Picture Co., Inc., B-220859.2, Mar. 4, 1986, 86-1 CPD ¶ 218 at 5.

We deny the protest.

The RFP, issued on April 16, 2002, contemplated the award of a fixed-price contract for a base year and three option periods. The RFP's scope of work includes O&M services for the station's Naval Radio Transmitting Facility (NRTF) Very Low Frequency (VLF) and High Frequency (HF) sites, Satellite Communication (SATCOM) facility, and Tactical Support Communication (TSCOMM) facility.² Section M of the RFP set forth the following four evaluation factors for award, listed in descending order of importance: management, key personnel/staffing, past performance, and price. The RFP stated that the technical factors combined were significantly more important than price (price, however, was to become more important as proposals approached technical equality); key personnel/staffing and past performance combined were approximately equal in importance to the most important technical factor, management.

Each offeror's technical proposal was to be adjectivally rated under each evaluation factor; the adjectival ratings were outstanding, highly satisfactory, satisfactory, marginal, or unacceptable. The RFP's definitions for the adjectival ratings applicable to management and key personnel/staffing included the following:

Outstanding -- The proposal earns the score of Outstanding since it meets and exceeds the solicitation requirements and the excess is beneficial to the Navy. . . . The proposal contains several enhancements of value (exceptional features, approaches, and/or innovations) that are worthwhile

Highly Satisfactory -- Fully meets all solicitation requirements and exceeds many of the solicitation requirements. Response exceeds a "Satisfactory" rating. . . . The proposal contains a few enhancements of value. . . .

Satisfactory -- Meets all solicitation requirements. Complete, comprehensive, and exemplifies an understanding of the scope and depth of the task requirements as well as the offeror's understanding of the Government's requirements. . . . The proposal demonstrates no enhancements of value

RFP at 34 (emphasis added).

² Rome is currently providing O&M services at the HF and SATCOM facilities; BAE is currently providing O&M services at the VLF facility; and the TSCOMM facility will be converting to contractor operation.

For evaluation of past performance, each offeror was to submit information describing its performance on directly related or similar contracts and subcontracts held within the last 5 years and all contracts and subcontracts currently in progress which are of scope, magnitude and complexity similar to the RFP's requirements. RFP at 28. The RFP stated that a rating of "outstanding" for the past performance factor was appropriate where an offeror's "performance of previously awarded contracts met contractual requirements and was accomplished with very few or very minor problems for which corrective actions taken by the [o]fferor were, or are, highly effective" and where the firm's performance of completed contracts "was consistently of the highest quality." RFP at 34 (emphasis added). The rating of "highly satisfactory" was to be given where a firm's past performance met contract requirements with some minor problems for which corrective action was taken or was expected to be effective, and where performance of completed contracts "either was consistently of high quality or exhibited a trend of becoming so."³ Id. (emphasis added). Award under the RFP was to be made to the firm that the agency determined submitted the proposal deemed most advantageous to the agency, considering all of the RFP's stated technical factors and price.

Four proposals were received by the scheduled closing time on June 10; two proposals were included in the competitive range, Rome's and BAE's. Discussions were held with the two firms and final proposal revisions were submitted by the scheduled closing time on July 24. The evaluators determined that the firms' revised proposals adequately addressed the items raised during discussions, but that the responses did not warrant a change in the evaluation ratings assigned to the initial proposals. BAE's proposal was rated higher than the Rome proposal under each evaluation factor, and (at \$26.3 million) was lower in price than Rome's proposal (at \$26.9 million).

The agency generally reports that both firms submitted strong technical submissions at competitive prices, but that BAE's proposal offered a few enhancements of value to the agency. In light of these enhancements, the BAE proposal was rated highly satisfactory under the RFP's most important evaluation factor, management. On the other hand, the evaluators found that Rome's final revised proposal failed to offer any enhancement of value to the agency; Rome's proposal therefore received a rating of satisfactory for the management factor. For the key personnel/staffing factor, BAE's proposal was rated as highly satisfactory and Rome's was rated as satisfactory (although the Rome proposal received a highly satisfactory rating for the key personnel component of the factor, it received only a satisfactory rating for the staffing subfactor). BAE's past performance, found to be consistently of the highest

³Past performance ratings of satisfactory, marginal, unacceptable and neutral, which are not pertinent to this decision, were also defined in the RFP.

quality, was rated outstanding; Rome's past performance, found to be consistently of high quality, due to one past performance reference's lower than outstanding ratings, was rated highly satisfactory.

On August 7, the agency awarded a contract under the RFP to BAE, having determined the firm's higher-rated, lower-priced proposal offered the best value to the agency. Rome received a debriefing on August 19. This protest followed.

Rome challenges the agency's evaluation of proposals. The protester contends that its proposal should have received higher ratings than it did under each of the technical evaluation factors (management, key personnel/staffing, and past performance). Rome also contests the high rating assigned to the BAE proposal under the past performance factor in light of performance problems Rome asserts BAE experienced under its current VLF O&M services contract at the same facility.

An agency's method for evaluating the relative merits of competing proposals is a matter within the agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. NLX Corp., B-288785, B-288785.2, Dec. 7, 2001, 2001 CPD ¶ 198 at 4. Where an evaluation is challenged, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Lear Siegler Servs., Inc., B-280834, B-280834.2, Nov. 25, 1998, 98-2 CPD ¶ 136 at 7. The fact that the protester disagrees with the agency and generally believes its proposal should have been rated higher than it was does not render the evaluation unreasonable. ESCO, Inc., B-225565, Apr. 29, 1987, 87-1 CPD ¶ 450 at 7. We have reviewed all of Rome's evaluation challenges and find each to be without merit. As discussed below, the protest provides no basis to question the agency's evaluation of proposals or the award determination.

The management factor was the most important factor for award under the RFP's evaluation scheme, and our review of the record confirms that the evaluation of proposals under the management factor became the determinative factor in the current source selection. As stated above, the RFP specifically identified the importance of "enhancements of value" to the agency, such as exceptional features, approaches or innovations. The evaluators found five enhancements in the BAE proposal that were determined to offer value to the agency; Rome's proposal was found to offer no enhancements of value. Rome does not challenge the highly satisfactory management rating assigned to the BAE proposal for the five enhancements of value identified by the agency or the agency's determination of the

value of these enhancements.⁴ The protester therefore has provided no reason for us to question the rating assigned to the BAE proposal under the management factor.

Rome contends that its proposal should have been rated at least as highly as the BAE proposal under the management factor (i.e., as highly satisfactory rather than satisfactory), because Rome believes it proposed efforts that exceed the stated requirements and that these additional efforts are beneficial to the agency. As an example of these enhancements of value, Rome cites [deleted]; Rome also contends that the proposal's [deleted] should be viewed as valuable to the agency. As the agency points out, however, these two elements were offered in the BAE proposal as well, and were not considered to be enhancements of value for BAE. The record therefore shows that these items, even if considered enhancements, would not improve Rome's proposal's evaluation rating relative to BAE's proposal.

Rome also suggests that two other enhancements of value were included in its proposal: [deleted]. Our review of the record, however, confirms the reasonableness of the agency's decision not to regard these elements as enhancements of value. As to the [deleted], the agency points out that the contractor is already required under the RFP to [deleted] if requested to do so by the contracting officer. The agency also explains that the proposed [deleted] fail to provide additional value, since agency personnel administering the contract themselves frequently provide such [deleted] to the contracting officer. As to the proposal's mention of the [deleted], the agency points out that, since a resume was not provided for the individual, it is difficult, if not impossible, to assess the role of the individual or his value to the agency, if any. Accordingly, our review of the record provides no basis to question the reasonableness of the agency's determination that these elements of the Rome proposal, contrary to Rome's suggestion, did not offer enhancements of value to the agency. Since the evaluation record supports the reasonableness of the agency's actions, and the satisfactory rating assigned to the Rome proposal under the management factor is consistent with the RFP's definition of the rating, we conclude the record provides no reason to question the noted technical disparity between the proposals in this area.⁵

⁴ The BAE enhancements of value identified by the agency, and not challenged by the protester, include: [deleted]. To the extent Rome's protest raises a limited challenge to the technical merit of BAE's proposed [deleted] (not considered by the evaluators to be an enhancement of value), since our review of Rome's proposal shows that the protester offered similar [deleted] terms, see Rome Proposal at 43; Protester's Comments at 6, n.2, we find that Rome's challenge in this regard provides no basis to question the evaluation or award.

⁵ We also note that Rome's contention that its management proposal, compared to that of BAE, should be viewed as providing less risk and additional value to the agency in terms of the firms' proposed "watch bills" (documents showing staffing
(continued...))

Rome next generally challenges the agency's evaluation of its proposal under the key personnel/staffing factor--Rome contends its proposal should have been rated higher under both subfactors of this factor.⁶ For instance, the protester questions the fact that its [deleted] received an overall rating of highly satisfactory, even though two of the three evaluators rated him outstanding. This allegation, pertaining to only one of Rome's key personnel, provides no basis to conclude that the overall key personnel subfactor rating should be raised to outstanding. Even if the individual's rating were outstanding overall, the record simply does not suggest that it would change the proposal's overall consensus rating under the key personnel subfactor from the highly satisfactory rating received to a rating of outstanding. The proposal's overall key personnel rating reflects a consensus of all the evaluators' assessments of not only that individual, but of all the key personnel proposed, and Rome has not demonstrated that a rating of outstanding is otherwise warranted for its staff of key personnel. Rather, as the agency points out, the record shows that the key personnel proposed by the two firms were comparable; [deleted].

The record instead indicates that the disparity in overall ratings between the proposals under the key personnel/staffing factor was due to the difference in evaluation ratings assigned to the two proposals under the equally weighted staffing subfactor. The record shows that, although the two firms' staffing proposals also were relatively comparable, the BAE proposal received a slightly higher rating based

(...continued)

schedules) provides no basis for us to question the evaluation or overall management ratings. Rome's allegation that BAE has proposed on-call, off-site personnel appears to be based on a misinterpretation of the BAE proposal; the record confirms that the challenged personnel are working scheduled shifts on-site. The record also confirms that the numbers of staff proposed by both firms were reasonably determined to be comparable [deleted]. In addition, the protester's allegation that the agency was obliged to discuss any concern about Rome's [deleted] provides no basis to question the agency's evaluation under the management factor. The record shows that the evaluation record notations about this matter indicate that the concern was only minor and did not prevent the firm from having a reasonable chance at receiving the award. See Du & Assocs., Inc., B-280283.3, Dec. 22, 1998, 98-2 CPD ¶ 156 at 7-8. Again, as discussed above, the lower rating assigned to Rome's proposal under the management factor was the result of its failure to offer any enhancements of value.

⁶ As noted above, Rome's proposal was rated highly satisfactory under the key personnel subfactor, and satisfactory under the staffing subfactor. Rome's overall rating under the key personnel/staffing factor was satisfactory.

on a few elements regarded as strengths, such as BAE's [deleted].⁷ In short, Rome has not persuasively supported its general contentions that its proposal should have received a higher rating under the key personnel/staffing factor, that the evaluation of its proposal under this factor was unreasonable, or that the evaluation of proposals under this factor otherwise provides any basis to challenge the award determination.

The protester's challenge to the past performance evaluations also provides no reason to question the award to BAE. Rome alleges that BAE suffered performance problems at the start of its incumbent contract in that it was unable to recruit some of the government personnel who had been stationed at the VLF site when it converted to BAE's operation. Rome also asserts that the BAE proposal was improperly rated higher than Rome's despite Rome's performance of allegedly more relevant and more numerous contracts for similar services than those performed by BAE. BAE received a rating of outstanding for past performance; Rome received a rating of highly satisfactory. As discussed below, our review of the record supports the reasonableness of the agency's past performance evaluations.

First, the agency reports that no performance problems arose under the challenged BAE contract, and that BAE promptly staffed the project with qualified personnel from its other sites.⁸

Second, despite Rome's general disagreement, our review of the record supports the reasonableness of the evaluators' determination of the relevance of both firms' past contracts. In accordance with the RFP, the similarity in work requirements and the magnitude of the past performance projects considered by the agency evaluators

⁷ Rome also argues that, since some of the printed evaluation sheets for its proposal show a rating mark (an "x") between two adjectival ratings, its proposal should receive the higher rating, listed to the left of the "x." The agency reports that it has confirmed that a formatting flaw in the printed rating information sheets appears to have caused a slight shift of the challenged "x" markings to the left of the correct rating. Accordingly, there is no reason to agree with Rome's unsupported suggestion that its proposal should be viewed under the higher rating listed to the left of each challenged "x." The agency reports that the intended adjectival rating is the rating that is slightly to the right of the rating mark on the affected evaluation pages.

⁸ We note that the RFP's definition of outstanding past performance includes "highly effective" resolution of "very few" or "very minor" performance problems. Accordingly, even if there were merit in Rome's contention that BAE's inability to hire some existing government personnel to staff the site at the start of performance was a performance problem, an outstanding rating for BAE could nonetheless be reasonable in light of the timely and effective action taken by the firm, which promptly staffed the project with its own personnel.

served as appropriate bases to determine the most relevant projects for review; the protester does not persuasively challenge the agency's determination of the relevance of the past contracts considered in the evaluation. As to Rome's challenge that the two firms' incumbent contracts were not considered, the record is clear that the contracting officer for both those incumbent contracts was an evaluator under the current RFP, and he states that he considered that both firms' contract performance under the firms' incumbent contracts was excellent.

Our review of the evaluation record reveals that the difference in the ratings assigned to the proposals under the past performance factor did not result from an unequal evaluation, but rather, is wholly consistent with the terms of the evaluation criteria themselves. As stated above, the RFP contemplated a rating of outstanding where the offeror's references reported performance of past contracts "consistently of the highest quality"; a rating of highly satisfactory was appropriate where the reports that showed performance was "consistently of high quality." RFP at 34. The evaluators determined that BAE's references, and other past performance information they had before them, demonstrated that BAE's past contracts reflected performance consistently of the highest quality—all of the firm's references evaluated the firm's performance as excellent. Rome's past performance on a directly relevant contract, however, received several ratings of satisfactory from the reference for that contract. The agency thus reasonably determined, consistent with the evaluation scheme set out in the RFP, that although Rome's other references considered its work to have been excellent, Rome's past performance should not be evaluated as outstanding under the terms of this RFP because the performance was not reported to have been consistently of the highest quality; the proposal instead was rated as highly satisfactory for performance reported to the agency as having been consistently of high quality overall. Rome has not shown, and we see no basis to conclude, that the agency's past performance evaluation was unreasonable or inconsistent with the evaluation criteria.

In sum, we find that the record here demonstrates the reasonableness of the agency's thorough and comprehensive evaluation of the firms' technical proposals, consistent with the stated evaluation scheme for award. We therefore have no reason to question the propriety of the agency's determination that BAE's higher-rated, lower-priced proposal offered the best value to the agency.

The protest is denied.

Anthony H. Gamboa
General Counsel