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Decision

Matter of: Systems Research and Applications Corporation

File: B-298107; B-298107.2

Date: June 26, 2006

David Metzger, Esq., and Michelle Mintz Brown, Esq., Holland & Knight LLP, for the protester.

Brian E. Toland, Esq., Robert A. Russo, Esq., Frank DiNicola, Esq., and Vera Meza, Esq., Department of the Army, for the agency.

Sharon L. Larkin, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Under a solicitation that contemplated up to 10 awards under which the agency made 7 awards, agency's determination to not make an additional award to the protester, whose proposal was lower technically rated and higher priced than the comparable awardees' proposals, was a reasonable exercise of sound business judgment consistent with the solicitation's evaluation scheme.

DECISION

Systems Research and Applications Corporation (SRAC) protests the decision of the U.S. Army Communications-Electronics Command (CECOM) not to award SRAC a contract under request for proposals (RFP) No. W15P7T-05-R-E401 for various life cycle services.

We deny the protest.

The RFP solicited proposals to provide a broad range of life cycle services designed to meet the integrated engineering, business operations, and logistics service needs of all "Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance" customers of CECOM's Life Cycle Management Command. The RFP provided for award of "up to ten (10)" indefinite-delivery/indefinite-quantity (ID/IQ) contracts, each for a 5-year base period with one 5-year option period, to those offerors whose proposals provided the "best value" to the government. RFP §§ A-2.5, A-2.6, A-2.8.

The RFP stated that the selection of awardees would be accomplished in two steps. First, the government would select multiple awardees from those proposals included in the competitive range without regard to the size of the offeror. Second, large businesses not selected for award in the first step would be eliminated from further consideration, and the agency would select up to two small business offerors and one section 8(a) offeror for possible awards. RFP § A-2.9.

The RFP identified four evaluation factors for award: technical, performance risk, small business participation plan (SBPP), and price. The technical factor was stated to be “significantly more important than” the performance risk factor, which was of equal importance to the SBPP factor, which was “slightly more important than” the price factor. The RFP identified two subfactors of the technical factor—sample tasks and management. The sample tasks subfactor, which included three equally weighted sub-subfactors (engineering, business operations, and logistics sample tasks), was stated to be “significantly more important than” the management subfactor. RFP § M-3.

The agency established a “three-tiered source selection organization” to evaluate proposals. A source selection evaluation board (SSEB) was formed to evaluate each offeror’s proposal against the solicitation requirements; a source selection advisory council (SSAC) was “to compare the offerors’ proposals, challenge the findings of the SSEB as they deemed appropriate, and provide comparative analysis advice” to the SSA; and a source selection authority (SSA) was appointed to oversee the entire process and make the award decision. Declaration of SSA (May 12, 2006) ¶ 4.

Twenty-five offerors submitted proposals. The SSEB conducted an “initial evaluation” of each proposal against the evaluation criteria, and assessed factor, subfactor, and sub-subfactor ratings based on identified strengths and weaknesses in each proposal. The SSEB briefed the SSAC and SSA of its evaluation findings, after which the agency excluded 7 proposals from the competitive range and held discussions with the remaining 18 offerors. The SSEB then performed an “interim evaluation” of the 18 remaining proposals, including offerors’ discussion responses, and again briefed the SSAC and SSA on its evaluation findings. *Id.*; Contracting Officer’s Statement (Apr. 17, 2006) ¶ 4.

On February 13, 2006, the SSEB conducted a “final” briefing with the SSAC and SSA. During this all-day meeting, the SSEB presented detailed narrative findings of the strengths, weaknesses, and ratings assessed to each proposal, which the SSAC and SSA probed to ensure that the evaluation was comprehensive, that the strengths and weaknesses were accurate, and that the ratings were fairly and consistently applied. Hearing Transcript (Tr.)¹ at 102-05, 227-31. For each proposal, the SSAC and SSA questioned the SSEB in detail until the SSA was satisfied that he “completely

¹ Our Office conducted a hearing on June 1, 2006.

understood the key discriminators among the proposals and was entirely satisfied with the accuracy of the evaluation findings and the SSEB's proposed ratings." Declaration of SSA (May 12, 2006) ¶ 4; Tr. at 96, 162.²

Based on the findings of the SSEB and the discussions with the SSEB and SSAC at the February 13 meeting, the SSA selected four large business offerors for award--Booz Allen Hamilton, Inc. (BAH), CACI Technologies, Inc. (CACI), Computer Sciences Corporation (CSC), and Lockheed Martin Integrated Services, Inc. (LM)--concluding that these offerors provided the "best overall proposals and [were] most beneficial to the Government."³ Agency Report (AR), Tab 5, Source Selection Decision Document (SSDD), at 2. The final evaluation ratings for these four awardees and SRAC (also a large business) were:

		BAH	CACI	CSC	LM	SRAC
Technical		Outstanding	Outstanding	Good	Good	Good
	Sample Tasks	Outstanding	Outstanding	Good	Good	Good
	Engineering	Outstanding	Outstanding	Good	Good	Acceptable
	Business	Outstanding	Outstanding	Good	Outstanding	Outstanding
	Logistics	Good	Good	Outstanding	Good	Good
	Management	Outstanding	Outstanding	Outstanding	Outstanding	Good
Performance Risk		Low	Low	Low	Low	Low
SBPP		Outstanding	Outstanding	Outstanding	Good	Outstanding
Price (\$Billions)		1.69	2.32	2.11	2.43	2.7

Id. Proposal ratings were defined as follows:

² Although the protester claims that we should give no weight to the SSA's declaration or his hearing testimony, our Office generally considers post-protest explanations, such as these, where the explanations merely provide a detailed rationale for contemporaneous conclusions and fill in previously unrecorded details, so long as the explanations are credible and consistent with the contemporaneous record. Manassas Travel, Inc., B-294867.3, May 3, 2005, 2005 CPD ¶ 113 at 3. Here, the SSA's declaration and testimony simply provide additional details regarding the source selection, which are consistent with the contemporaneous record. While the protester in its post-hearing comments attacks the credibility of the SSA's testimony, we find he has credibly explained the basis for his decision not to make award to SRAC.

³ The agency then made three additional awards to two small businesses and to a section 8(a) small business. These additional awards are not the subject of this protest.

Outstanding	A proposal that satisfies all of the Government's requirements with <u>extensive detail</u> to indicate feasibility of the approach and shows a <u>thorough understanding</u> of the problems, with an overall <u>low</u> degree of risk in meeting the Government's requirements.
Good	A proposal that satisfies all of the Government's requirements with <u>adequate detail</u> to indicate feasibility of the approach and shows an <u>understanding</u> of the problems, with an overall <u>low to moderate</u> degree of risk in meeting the Government's requirements.
Acceptable	A proposal that satisfies all of the Government's requirements with <u>minimal detail</u> to indicate feasibility of the approach and shows a <u>minimal understanding</u> of the problems, with an overall <u>moderate to high</u> degree of risk in meeting the Government's requirements.

AR, Tab 11, Source Selection Evaluation Plan (SSEP), at 23 (emphasis added).

Here, the proposals of the four large business awardees received the highest technical ratings. AR, Tab 5, SSDD, at 2. In his source selection decision, the SSA provided a detailed explanation of the comparative analysis of the four awardees' proposals with those offerors' proposals that were lower in price to determine whether the awardees' higher priced, technically superior proposals were worth the additional cost, and in each instance the SSA determined that the awardees' proposals provided the better value to the government. With respect to offerors with higher priced, technically inferior proposals (such as SRAC), after confirming the accuracy of ratings, strengths and weaknesses of the offerors' proposals, and comparing these to the awardees' proposals, Tr. at 26-27, 96, 162, the SSA stated:

I have compared the proposals submitted by [SRAC and the other higher priced, technically inferior proposals] to the proposals submitted by [BAH, CACI, CSC, and LM] and have determined that none of these higher priced proposals exhibit sufficient superiority in the non-price factors to warrant award to any of these higher priced proposals.

AR, Tab 5, SSDD, at 18. After receiving notice of award and a debriefing, SRAC protested to our Office.

SRAC does not challenge the four contract awards, but contends that it also was entitled to an award under the solicitation. Specifically, SRAC argues that its proposal was "at least equal" to, if not superior to, LM's (the lowest technically rated and highest priced proposal of the four large business awardees) in technical merit, and that, as a result, the agency was required to perform a proper comparative assessment of the proposals and a cost/technical tradeoff to determine whether SRAC was also deserving of an award. In making this contention, the protester has specifically challenged the evaluation of its proposal under the management

subfactor and the engineering sub-subfactor of the sample tasks subfactor, for which SRAC's proposal was rated lower than LM's proposal.⁴

In reviewing an agency's evaluation of proposals, our Office will not reevaluate the proposals, but will examine the record to ensure that the evaluation was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. U.S. Facilities, Inc., B-293029, B-293029.2, Jan. 16, 2004, 2004 CPD ¶ 17 at 6.

Under the management subfactor, SRAC's proposal received a "good" rating and LM's proposal received an "outstanding" rating. In support of SRAC's rating, the SSEB identified two strengths and no weaknesses in SRAC's proposal. The agency found that, although there were no cited weaknesses, SRAC's proposal was not sufficiently detailed and did not demonstrate a thorough understanding of the problems so as to warrant a higher "outstanding" rating. AR, Tab 6, SSEB Final Report of SRAC's Proposal, at 14; Contracting Officer's Statement (Apr. 17, 2006) ¶ 8, n.10.

SRAC lodges a number of complaints to this rating assessment. First, it complains that its proposal deserved an "outstanding" rating because no weaknesses were assessed in the final SSEB report. However, the adjectival ratings, as defined in the SSEP, were not based on the number of weaknesses (or lack thereof), but instead on the level of detail, understanding, and risk presented in the proposals. Based on our review, and consistent with the rating definitions, the agency reasonably concluded that, although SRAC adequately responded to discussion questions (which eliminated previously assessed weaknesses), the proposal did not provide "extensive" detail or demonstrate a "thorough" understanding of the problems to warrant the higher "outstanding" rating. AR, Tab 6, SSEB Final Report of SRAC's Proposal, at 14; Contracting Officer's Statement (Apr. 17, 2006) ¶ 8. While SRAC contends that its proposal was sufficiently detailed to warrant the higher rating, its argument amounts to mere disagreement with the agency's judgment, which does not render the agency's conclusions unreasonable. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

⁴ Because SRAC does not challenge the assessment of LM's proposal ratings under these factors, we review only the assessment of ratings to SRAC's proposal. SRAC initially challenged the assessment of a "low" proposal risk rating to LM's proposal, but abandoned that protest ground when it failed to respond in its comments after the agency addressed this issue in its agency report. Planning Sys., Inc., B-292312, July 29, 2003, 2004 CPD ¶ 83 at 6. Similarly, SRAC abandoned a number of other protest grounds, including its protest that the agency did not hold meaningful discussions with SRAC and relied on funding as an unannounced evaluation criterion.

Next, SRAC complains that its proposal deserved an “outstanding” rating under the management subfactor (the same as LM received) because LM’s proposal received only three strengths under the subfactor and SRAC’s proposal received two, thus, in SRAC’s view, rendering the evaluation of this subfactor a “virtual tie.” SRAC’s Post-Hearing Comments at 18.

However, as the SSA explains, the agency did not “count strengths,” but instead qualitatively analyzed those strengths, as was proper under the evaluation scheme. Tr. at 95; see also AR, Tab 6, SSEB Final Report of SRAC’s Proposal, at 12-14; AR, Tab 7, SSEB Final Report of LM’s Proposal, at 10-12. Furthermore, during the February 13 meeting, the SSA and SSAC probed the assigned strengths, weaknesses, and adjectival ratings to ensure that the assessments were accurate, fair, and consistently applied between offerors’ proposals. Tr. at 95-96, 102-05, 162, 165, 220, 227-30. Where similar strengths were identified in two proposals but different ratings were assessed, the SSA and SSAC asked questions to make sure that there were meaningful distinctions between proposals to justify the different ratings. Tr. at 86, 108, 165, 181-82, 200, 220, 227-30. This was a proper methodology for comparing the relative merits of the proposals under this subfactor.

Based upon these efforts, the SSA reasonably found that there were meaningful differences between LM’s and SRAC’s proposals under the management subfactor to warrant different adjectival ratings. As documented in the record, SRAC’s proposal received strengths for its proposed use of [REDACTED] and for already having in place a [REDACTED]. AR, Tab 6, SSEB Final Report of SRAC’s Proposal, at 12-13. Although LM’s proposal similarly received strengths for the firm’s [REDACTED] and experience with obtaining [REDACTED] it also received a strength for [REDACTED], which demonstrated to the agency that LM had the “ability to have [REDACTED].” Furthermore, in contrast to SRAC’s less detailed response to this subfactor, the agency recognized that LM’s proposal provided “extensive detail to indicate feasibility of the approach and show[ed] a thorough understanding of the problems with an overall low degree of risk in meeting the Government’s requirements” to justify the higher “outstanding” rating. AR, Tab 7, SSEB Final Report of LM’s Proposal, at 10-12.

Finally, SRAC contends that its proposal should have received an “outstanding” rating under the management subfactor to be consistent with the agency’s finding that SRAC’s management was a strength under the logistics sample task sub-subfactor of the sample tasks subfactor and because its performance risk was considered low. However, the management subfactor was to evaluate the offeror’s ability to manage the overall “Strategic Services Sourcing (S3)” program, whereas the sample tasks subfactor related management capability only to an individual task order, and performance risk considered risks based on the offeror’s past performance. See Contracting Officer’s Statement (Apr. 17, 2006) ¶ 9. Where different criteria assess different proposal elements, as is the case here, a recognized strength under one criterion does not necessarily require that the agency recognize a

strength under another criterion.⁵ See Delta Dental of Calif., B-296307, B-296307.2, July 28, 2005, 2005 CPD ¶ 152 at 14 (finding that a strength for exceeding one RFP requirement did not require the agency to assess a strength for exceeding another requirement by a similar amount).

In sum, we find that the agency's assignment of a "good" rating to SRAC's proposal under the management subfactor was consistent with the SSEP and solicitation and was reasonable, and that the record provides no basis to challenge the agency's assessment that LM's proposal was technically superior to SRAC's under this subfactor.

SRAC also challenges its rating under the engineering sample task sub-subfactor of the sample tasks subfactor. In this regard, SRAC's proposal received an "acceptable" rating and LM's proposal received a "good" rating. The agency assessed SRAC's proposal a lower rating because of six significant weaknesses and one other weakness, which the SSEB concluded demonstrated that SRAC "lacks knowledge in . . . key areas" and possesses only a "minimal understanding of the sample task problem." AR, Tab 6, SSEB Final Report of SRAC's Proposal, at 7. These significant weaknesses and other weakness include a lack of information or understanding of system engineering processes such as the "Joint Capabilities Integration and Development System" process, a minimal collection of information relating to the "Synthetic Aperture Radar/Moving Target Indicator, "less than minimal" information concerning test strategy, minimal information about certain interoperability requirements, limited information pertaining to translating requirements into performance specifications, and minimal information regarding SRAC's information assurance process. Id. at 5-7; Declaration of SSA (May 12, 2006) ¶ 5.

SRAC's challenge to the assessment of these significant weaknesses and other weakness under the engineering sub-subfactor is untimely. Although the facts giving rise to the basis for protest were disclosed to SRAC during its debriefing, see AR, Tab 4, SRAC Debriefing, at 15, SRAC did not raise this as a ground of protest until its comments on the agency report. Since SRAC did not protest within 10 days of when it became aware of the bases for this challenge, this protest ground is untimely and will not be considered.⁶ 4 C.F.R. § 21.2(a) (2006). Thus, we have no basis to find unreasonable the agency's relative ratings of SRAC's and LM's proposal under the engineering sub-subfactor.

⁵ In any event, SRAC's proposal received a "good" rating under the logistics sub-subfactor (which rating SRAC does not challenge), which is consistent with what the proposal also received under the management subfactor.

⁶ In any event, we have reviewed the agency's findings, and find that SRAC's proposal was reasonably rated "acceptable" under the engineering sub-subfactor.

Even though SRAC's proposal received lower ratings than LM's proposal under the management subfactor and engineering sub-subfactor of the sample tasks subfactor, SRAC nonetheless asserts that its proposal should have been considered at least equal if not superior to LM's proposal. SRAC argues that because the ratings for both offerors' proposals were "rolled-up" to an overall "good" rating under the technical factor, this denotes that both proposals were essentially technically "equivalent." SRAC's Comments and Supplemental Protest (Apr. 28, 2006) at 2-3. Since SRAC's proposal also received a higher rating under the SBPP factor, the firm asserts that its proposal was actually superior to LM's.

The fact that both firms' proposals received "good" ratings under the technical factor does not erase the discriminators that otherwise exist under the subfactors and sub-subfactors. Adjectival ratings and point scores are only a guide to assist agencies in evaluating proposals; information regarding advantages and disadvantages of proposals is the type of information that source selection officials should consider in addition to ratings and point scores to enable them to determine whether, and to what extent, meaningful differences exist between proposals. Proposals with the same or similar adjectival ratings are not necessarily of equal quality and the agency may properly consider specific advantages that make one proposal of higher quality than another, even where the same adjectival ratings are assigned. Pueblo Envtl. Solution, LLC, B-291487, B-291487.2, Dec. 16, 2002, 2003 CPD ¶ 14 at 10.

Here, the SSA performed an in-depth analysis of the nature of strengths and weaknesses in the proposals in the technical areas challenged by SRAC and based his decision not on the "rolled up" ratings, but on the strengths and weaknesses that were reflected in the ratings at the subfactor level. Tr. at 124. Based on his review, the SSA determined that "there were a tremendous number of significant weaknesses" with regard to SSAC's response to the engineering sub-subfactor of the sample tasks subfactor and that LN's proposal was superior to SSAC's under the management subfactor because it demonstrated "a superior ability to cover the total spectrum of work to be ordered under this contract." Tr. at 123-25; Declaration of SSA (May 12, 2006) ¶¶ 5, 6.

The SSA also considered SRAC's higher rating under the SBPP factor, but recognized that this least-weighted non-price factor was "much less-weighted than the technical factor," and determined that the superiority of LN's proposal in the technical area outweighed the superiority of the SRAC proposal under the SBPP factor, particularly given the SSA's reasonable conclusion that "there was very little difference between [SRAC's] proposal and [LN's] proposal" under the SBPP factor. Tr. at 124-25; Declaration of SSA (May 12, 2006) ¶ 7.

In sum, we have no basis to conclude that the agency was required to find that SRAC's proposal was technically superior to LM's.⁷ Moreover, contrary to the protester's contentions, as indicated by the above discussion, the agency performed a proper comparative assessment of the proposals in determining which proposals should received awards.

The protester also asserts that the award decision was defective because no cost/technical tradeoff was performed with regard to SRAC's proposal. In fact, the SSA confirmed that he determined that a detailed cost/technical tradeoff was not required with regard to SRAC's and the other proposals that were higher priced and lower technically rated than the four awardees' proposals. Tr. at 55, 67, 120. We agree. A cost/technical tradeoff to determine which offeror should receive award is not required when, as here, one proposal is higher priced and lower technically rated than other proposals. Gentex Corp.--Western Operations, B-291793 et al., Mar. 25, 2003, 2003 CPD ¶ 66 at 29; Apex Marine Ship Mgmt. Co., LLC; Am. V-Ships Marine, Ltd., B-278276.25; B-278276.28, Sept. 25, 2000, 2000 CPD ¶ 164 at 20 n.26. Accordingly, SRAC's complaint that the SSA should have performed a detailed tradeoff, and documented that analysis in its SSDD, does not provide a basis to sustain the protest.

Finally, SRAC complains that, as evidenced by the agency's failure to specifically consider higher-priced, technically inferior proposals in the SSD, the agency gave too much weight to the price evaluation factor and converted this best value procurement to a low cost/technically acceptable evaluation. SRAC similarly complains that the agency relied on LM's proposal as an undisclosed "breakpoint," above which no higher-priced proposals were considered.

It is true that the record evidences that the SSA, after completing the non-price factor evaluation and considering price, looked for a natural (not a "preconceived") "breakpoint, so [he] could make the appropriate amount of awards that [he] considered to be the best value." Tr. at 133-34, 137, 144-46. In this regard, the SSA noted that the four awardees' proposals were both higher rated and lower priced than the next three proposals that could be considered for award. Given that only a certain number of awards could be made under the RFP (that is, 10), some of which

⁷ We also find no merit to SRAC's argument that its proposal was technically superior to LM's because, in total, it received 24 strengths and LM's proposal received only 22 strengths. This argument fails to recognize the qualitative importance of the proposal strengths or the significance of the strengths given the relative weight of the factors they were associated with. This argument also fails to consider the materiality of the weaknesses found in each offeror's proposal, such as the 7 significant weaknesses and 11 other weaknesses associated with SRAC's proposal, compared to the 8 weaknesses and only 1 significant weakness associated with LM's proposal. AR, Tab 12, Final Evaluation Brief to SSA/SSAC, at 27, 29.

were to be made to small businesses and a section 8(a) concern, the SSA determined that 4 large business awards were the appropriate number to satisfy the agency's requirements. He stated that the large business proposals that were both lower rated and higher priced than the four awardees' proposals would therefore not represent the best value to the government. Tr. at 133-37, 144-46, 151-52, 156. In our view, the record simply does not evidence that price was given too much weight in the evaluation or that the agency deviated from the solicitation's best value evaluation scheme in deciding not to make an additional award to SRAC. In this regard, where multiple awards are contemplated by a solicitation, the agency is entitled to exercise sound business judgment consistent with the terms of the solicitation in determining how many awards should be made. See Apex Marine Ship Mgmt. Co., LLC; Am. V-Ships Marine, Ltd., supra, at 20-22; R.C.O. Reforesting, B-280774.2, Nov. 24, 1998, 98-2 CPD ¶ 119 at 3-4.

In sum, the agency's determination not to make an additional award to SRAC was a reasonable exercise of its business judgment and was consistent with the solicitation.

The protest is denied.

Anthony H. Gamboa
General Counsel