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Decision

Matter of: Financial & Realty Services, LLC

File: B-299605.2

Date: August 9, 2007

Shelton H. Skolnick, Esq., Skolnick & Leishman, P.C., for the protester.
Jonathan S. Baker, Esq., Environmental Protection Agency, 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 challenging evaluation of proposals and source selection decision is denied where record shows the evaluation was reasonable and consistent with the solicitation.

DECISION

Financial & Realty Services, LLC (FRS) protests the evaluation of its proposal and award to Apex Logistics, LLC under request for proposals (RFP) No. PR-HQ-07-10196, issued by the Environmental Protection Agency for warehouse operations and labor services. FRS contends that its proposal should have been rated higher technically and should have been selected for award in light of its lower proposed price.

We deny the protest.

The RFP, issued on February 1, 2007 as a small business set-aside, contemplated the award of an indefinite-delivery/indefinite-quantity contract, with fixed-price labor rates, for a base year plus four 1-year option periods. RFP ¶¶ B.1, L.2. Award was to be made to the offeror that submitted the proposal deemed most advantageous to the government considering five equally weighted technical evaluation factors (technical experience and approach, management approach, past performance, personnel, and corporate experience) and price (which was approximately equal in importance to the technical factors combined). *Id.* ¶ M.3. Offerors were advised that proposals would be evaluated on the completeness and quality of the information they provided, and that it was the responsibility of each offeror to demonstrate its qualifications in terms of experience, capability, and proposed approaches to meet all of the requirements of the statement of work (SOW). *Id.* For

instance, offerors were instructed that they must demonstrate not only the overall quality of their proposed methodologies to perform all of the required tasks, but also how their experience matches the RFP's performance requirements. Id.

The SOW identified numerous warehouse operations requirements (including shipping, receiving and storing property, as well as inventory management services). Id., attach.1, SOW, at 5-8. Numerous requirements for labor support services were also set out in the SOW (including office packing and relocating, scheduling of deliveries, collecting recyclables, configuring rooms for events, emergency cleaning (including moving equipment and collecting trash), shredding and disposal of documents, airing and delivery of carpet tiles, assembly of furniture, and installing window coverings and bulletin boards). Id. at 1-5.

The 11 proposals received by the scheduled closing time were evaluated. Two proposals were found to be outstanding in terms of technical merit (Apex's proposal and another firm's higher-priced proposal). Four of the proposals were considered average in terms of technical merit, and four proposals (including FRS's proposal, which was rated second to last of the 11 proposals in terms of technical merit) were considered below average; one proposal was considered unsatisfactory.¹ The protester's proposal's technical rating of below average was primarily based on its failure to adequately demonstrate, as required, its technical experience and proposed approach, management approach, proposed personnel, and corporate experience.²

Apex's offer (at \$12,278,344.40) was the median price proposal received (five proposals priced lower and five proposals priced higher than Apex's proposal were received); FRS submitted the lowest priced proposal (at \$10,333,214.92). The agency concluded that between the two highest rated proposals (rated outstanding for

¹ The technical evaluators assigned the following adjectival ratings: "outstanding" (for exceeding requirements with a very high probability of success and a very low level of risk); above average (for exceeding requirements with a high probability of success and low level of risk); average (for satisfactorily addressing all requirements with a good probability of success and average level of risk); below average (for failing to adequately address all of the RFP requirements, presenting questionable probability of success and above average performance risk); and unsatisfactory (for having deficiencies or weaknesses including an offeror's failure to address requirements, showing a low probability of success and a high risk level).

² FRS's proposal was rated unsatisfactory under the technical experience and approach factor, and below average under the management approach, personnel, and corporate experience factors. FRS received an above average rating under the remaining factor, past performance (reflecting the agency's averaging of the three past performance reference surveys received for the firm that indicated customer satisfaction ratings of outstanding, above average, and average).

overall technical merit), Apex's lower-priced proposal was the most advantageous. The agency then compared Apex's proposal to the proposal ranked next in line technically with a rating of average and which proposed a slightly lower price; the agency concluded that the Apex proposal remained the most advantageous. Comparing the Apex proposal to the remaining lower-rated, lower-priced proposals, including FRS's proposal, the agency determined that the benefits of the low performance risk presented by the Apex proposal's technical superiority warranted payment of the price premium associated with it. Given the large disparity between the proposals in terms of technical merit and performance risk, the agency considered negligible the cost difference between the substantially higher rated Apex proposal and the lower-priced, technically inferior proposals, including FRS's substantially lower rated proposal. The source selection authority determined that the Apex proposal was the most advantageous to the agency, and award was made to that firm. This protest followed.

FRS protests the below average rating assigned to its technical proposal and contends that the agency unreasonably determined that the proposal failed to demonstrate the firm's experience, capability, and approach to meet the RFP's requirements. The protester further contends that, since price was approximately equal in importance to technical merit, FRS should have received the award because it offered a substantially lower-priced proposal.

In reviewing protests of alleged improper evaluations and source selections, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws. See Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. It is a vendor's responsibility to submit an adequately written proposal that establishes its capability and the merits of its proposed technical approach in accordance with the evaluation terms of the solicitation. See Verizon Fed., Inc., B-293527, Mar. 26, 2004, 2004 CPD ¶ 186 at 4. A protester's mere disagreement with the evaluation provides no basis to question the reasonableness of the evaluators' judgments. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. Where, as here, price and technical factors are of approximately equal weight, price/technical tradeoffs may be made, and we will not disturb awards to offerors with higher technical merit and higher prices so long as the result is consistent with the evaluation factors and the agency has reasonably determined that the technical superiority outweighs the price difference. Structural Preservation Sys., Inc., B-285085, July 14, 2000, 2000 CPD ¶ 131 at 7.

In response to the protest, the agency provided a detailed record of its evaluation and source selection decision. Based on our review of this record, and FRS's failure to persuasively rebut the justifications provided by the agency for the challenged

evaluation findings, we see no basis to question the reasonableness of the evaluation and award decision.³

Under the technical experience and approach factor, offerors were required to demonstrate how their experience matches each of the SOW tasks and provide proposed technical approaches to accomplish each task. FRS's proposal, however, failed to detail its experience with each SOW requirement and failed to specifically match its experience to the SOW requirements, as required for the evaluation of proposals. Contrary to the RFP's instructions for a demonstration of technical experience, the firm submitted a proposal containing general claims of experience with the SOW requirements. The firm also failed to provide any details as to how it intended to perform the contract to meet each SOW requirement; in this regard, rather than provide a detailed explanation of how the firm intends to perform the specific tasks, the FRS proposal set forth general plans to implement policies and procedures it will establish to perform the work. These generalities clearly fail to provide the requisite demonstration of technical merit, since they fail to identify how the work will be accomplished.⁴ While the firm generally states that it will train and supervise personnel, check paperwork and product damage, pack in accordance with agency requirements, report problems, store items in a safe manner, and establish recordkeeping procedures, virtually no support was provided by FRS to explain how these measures would be executed, or how the actual warehouse and

³ Our review confirms the reasonableness of the agency's determination that the protester's proposal failed to provide sufficient support and details demonstrating the firm's purported knowledge, capability, approach, and experience, and thus did not warrant a higher evaluation rating. While we have reviewed all of FRS's contentions, we discuss in this decision only a sample of its evaluation challenges, as they each involve a similar lack of detail in the proposal to demonstrate the firm's qualifications and intended approaches.

⁴ FRS argues that a narrative description of its current warehouse and logistics contract submitted for evaluation of its corporate experience should be considered under the technical experience and approach, and management approach evaluation factors as well. The narrative, however, does not support the higher evaluation ratings the firm seeks, since it does not match the firm's purported experience to specific SOW requirements, as required for evaluation of technical experience and approach; it also does not set out the firm's proposed management approach for the current work (for instance, concerning the ability to commit personnel or stagger labor hours to avoid overtime expenses, as required by the RFP). Additionally, with regard to the corporate experience factor, although the evaluators found that the narrative provided some corporate experience for which the firm was credited, as the agency points out, the narrative provides no basis to question the firm's corporate experience rating of below average, since it does not show that the firm has experience with many of the labor support services required here.

labor support work would be performed. Accordingly, there is no basis in the record to suggest that the agency's rating of unsatisfactory for the proposal under the technical experience and approach factor was unreasonable.⁵

FRS next argues that, since price was approximately equal in importance to the technical factors combined, the agency should have given the protester's low price equal weight in the price/technical tradeoff analysis conducted to determine which offer was most advantageous to the agency. As stated above, the record shows that the agency made a detailed comparison between the two highest rated (rated as outstanding) technical proposals, and Apex's proposal was considered most advantageous due to its lower price. The technical merit of the Apex proposal was then compared to that of the next highest rated (rated as average), slightly lower-priced proposal, and the agency concluded that the Apex proposal's technical superiority outweighed the cost savings associated with the other proposal. The source selection official then compared Apex's outstanding rating, as well as the firm's higher price, to the lower technical ratings received by the lower-priced proposals and concluded that the criticality of successful performance of the RFP's requirements here outweighed the cost savings associated with the technically inferior proposals.

Our review of the record provides no basis to question the reasonableness of the agency's trade-off analysis, and there is no support for FRS's contention that the agency may have considered price to be less than approximately equal in importance to the technical factors combined. The record shows that the agency gave specific consideration to the low price offered by FRS. We believe the agency reasonably concluded, however, that the high performance risk associated with the substantially technically inferior proposals (including the FRS proposal) outweighed the benefit of their lower prices. Based on our review of the record, given the substantial disparity in technical merit between the Apex and FRS proposals, there is no reason to question the propriety of the tradeoff determination that an award on the basis of Apex's low risk proposal was reasonably worth the price premium associated with it. While FRS disagrees with the evaluation and award decision, its mere disagreement

⁵ The protester also suggests that, since its proposal states that the firm proposes to use a quality management system, its proposal should be rated higher than below average under the management approach factor. Our review of the record, however, shows that the firm fails to detail in its proposal how its generally described system in fact will be used to manage the firm's efforts in performance of the SOW tasks. Absent the requisite additional information, we cannot question the reasonableness of the below average rating assigned to the firm's proposal in this area. Similarly, we note that, since FRS failed to provide the required employee synopses for non-key personnel to demonstrate their education and qualifications, there is no reason to question the propriety of the below average rating the firm's proposal received under the personnel evaluation factor.

does not show that the source selection was not reasonably based or otherwise inconsistent with the RFP award language. See Citywide Managing Servs. of Port Washington, Inc., supra.

The protest is denied.

Gary L. Kepplinger
General Counsel