



GAO

Accountability * Integrity * Reliability

Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: TELESIS Corporation

File: B-299804

Date: August 27, 2007

Payal Tak for the protester.

Terence W. Carlson, Esq., Department of Transportation, for the agency.

Peter D. Verchinski, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging evaluation of protester's proposal is denied where record shows that agency reasonably downgraded proposal, and where other alleged evaluation errors involved such minor considerations that they did not prejudice protester.

DECISION

TELESIS Corporation protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. DTOS59-06-R-00016, issued by the Department of Transportation (DOT) for information technology (IT) support services. TELESIS primarily asserts that the technical evaluation was flawed.

We deny the protest.

BACKGROUND

The RFP, which was issued on June 1, 2006 as a section 8(a) set-aside, contemplated the award of a fixed-price, indefinite-delivery/indefinite-quantity (ID/IQ), time and materials contract for a base year, with 4 option years. The performance work statement (PWS) covered 12 areas of IT support: service center and network operations center; telecommunications services; messaging and directory services; network management and administrative; desktop services; consolidated server services; systems and asset management; application design, development, and maintenance; web development and maintenance; network security; disaster recovery and business continuance operations; and IT operations consulting. RFP at C-3. The total estimated ceiling value of the contract, including the option years, was \$155,000,000.

Award was to be made to the offeror whose proposal provided the “best value” to the agency, with the evaluation to be based on price and three technical evaluation factors: management approach (worth 30 percent of the total technical score), technical response (50 percent), and past performance (20 percent). Technical proposals were to include a chapter addressing several specified areas under each of the technical evaluation factors: the management approach chapter was to address nine areas (such as business management qualifications, and an organizational management structure); the technical response chapter included seven areas (such as ability to provide IT staffing resources consistent with applicable security requirements and IT certifications); and the past performance chapter was to address seven aspects of past performance. Technical merit (the three technical evaluation factors) was “somewhat more important” than price. RFP at M-1.

Nineteen proposals were received and evaluated by a technical team. TELESIS’s proposal received a management approach score of 20.33 points (of 30 available), a technical response score of 31.92 points (of 50 available), and a past performance score of 7.27 points (of 20 available), for a total technical score of 59.52 (of 100 total available points). TELESIS’s evaluated price (a “base year composite cost”) was \$6,533.07. Agency Report (AR), Competition Range Decision Document, at 3. The agency concluded that TELESIS’s proposal did not have a reasonable chance of being selected for award, and thus eliminated it from the competitive range. The agency included only one proposal—submitted by 1 Source Consulting, Inc., and receiving a technical score of 88.37, with an evaluated price of \$6,668.00—in the competitive range.¹ After a debriefing, TELEIS filed this protest.

TELESIS argues that the agency unreasonably evaluated its proposal with respect to each of the four evaluation factors, specifically challenging numerous technical proposal evaluated weaknesses and one price proposal weakness. The determination of whether a proposal belongs in the competitive range is principally a matter within the discretion of the procuring agency. Dismiss Charities, Inc., B-284754, May 22, 2000, 2000 CPD ¶ 84 at 3. Our Office will review an agency’s evaluation of proposals and determination to exclude a proposal from the competitive range for reasonableness and consistency with the criteria and language of the solicitation, as well as applicable statutes and regulations. Novavax, Inc., B-286167, B-286167.2, Dec. 4, 2000, 2000 CPD ¶ 202 at 13. Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); Wahkontah Servs. Inc., B-292768, Nov. 18, 2003, 2003 CPD ¶ 214 at 4. We have

¹ In response to a protest filed in our Office by Creative Information Technology, Inc. (CIT) (B-299804.2, dismissed June 27, 2007), the agency added CIT’s proposal—with a score of 83.33 and a price of \$7,787—to the competitive range.

reviewed the record and conclude that the evaluation of TELESIS's proposal, and its resultant exclusion from the competitive range, were unobjectionable. We discuss several of the protester's arguments below.

STAFFING/SECURITY REQUIREMENTS

The protester challenges the agency's evaluation of its proposal under the following technical response evaluation area:

Ability to provide the quality and quantity of IT staffing resources consistent with applicable security requirements and technical IT certifications relevant to [PWS] type work activities, including a table showing the typical number of IT technical staffing resources available to the Offeror, their security and certification qualifications;

RFP at M-6. TELESIS asserts that it provided two tables containing the required information, and that the agency thus had no basis for downgrading its proposal in this area.

The evaluation in this area was reasonable. Rather than providing one table laying out the firm's IT technical staffing resources together with the staff's security and certifications qualifications, TELESIS's proposal included two tables. One contained the number of IT professionals and security cleared staff generally available to TELESIS and its team members (specifically, "Access to 12,000+ Industry IT professionals," and "More than 6,000 security cleared staff"), and the second consisted of a list of the various IT and security certifications held by the TELESIS team. TELESIS Proposal, append. 2A-5, 2A-6. The agency found the tables incomplete, since they (and the proposal generally) did not provide any details explaining which or how many of the identified potential staff possessed the security clearances and IT certifications listed. The agency concluded that there was no way to relate TELESIS's identified staffing resources to security clearances and IT certifications, and that it thus was unable to evaluate the proposal in this regard. AR, Technical Evaluation for TELESIS, at 6. We find nothing unreasonable in the agency's downgrading of the protester's proposal on this basis.

OBTAIN/REPLACE QUALIFIED STAFFING

TELESIS challenges the downgrading of its proposal under the following management approach evaluation area:

Ability to rapidly obtain and/or replace qualified staffing resources required by the contract's labor categories to support existing and new task order work, and to meet changing workload requirements, including a table showing employee turnover rates for each of the past three years (for offeror and any teaming partner);

RFP at M-5. The agency found that TELESIS's lead time for hiring personnel for new task orders was excessive--concluding that it had "no demonstrated ability...to rapidly obtain resources"--and that TELESIS "did not address such things as what they would do when a new task order was awarded or an existing task order was expanded." AR, Technical Evaluation for TELESIS, at 1. TELESIS asserts that this evaluated weakness was unfounded, since it proposed to fill positions within 2 weeks, and outlined its processes in its proposal accordingly.

The evaluation in this area was reasonable. TELESIS's proposal states that the firm has "the ability to completely staff this task within two weeks of contract award." TELESIS Proposal § 2.2. However, TELESIS's staffing following award of the contract itself was not the focus of the agency's concern; rather, the agency found that the proposal failed to provide information regarding the staffing of new task orders when issued, or the staffing measures that would be taken in the event of an expansion of an existing task order.² Given the absence of such information from TELESIS's proposal, the agency reasonably downgraded the proposal on this basis.

PROGRAM MANAGER CERTIFICATION

TELESIS asserts that the agency improperly downgraded its proposal based on its program manager's failure to hold PMI PMP (Project Management Institute Project Management Program) or ITIL (Information Technology Institute Library) certification, since neither qualification was specifically required under the solicitation.

This argument is without merit. While the protester is correct that the RFP did not require that management personnel have these specific qualifications, it did specifically require sufficiently "qualified management, technical, and support personnel to perform all tasks as ordered in specific task orders, including applicable industry certifications (Microsoft, Cisco, and others)." RFP at C-4. The agency asserts that PMP and ITIL certifications are standard for project managers. TELESIS does not challenge the agency's position but, rather, merely reasserts its position that these certifications were not required by the RFP. Given the RFP requirement for qualified management personnel, with specific reference to

² The protester asserts that "the Techbits table contained in the introduction to the Team TELESIS approach (see Chapter 2: Technical Response, Section 2.0) states that the TELESIS approach includes the ability to staff tasks within two weeks." Letter from TELESIS to GAO, July 20, 2007, at 6. Our review of the Techbits Table shows four bullet points, none stating that TELESIS would staff task orders within 2 weeks. In any event, such a commitment alone, absent an explanation of its ability to meet the commitment, would appear to fall short of meeting the evaluation criteria.

applicable industry certifications, the agency reasonably downgraded TELESIS's proposal based on its proposed program manager's lack of industry certifications.

ORGANIZATIONAL MANAGEMENT STRUCTURE

The protester asserts that the agency unreasonably downgraded its proposal under the following management approach area:

An organizational management structure and approach with clear roles, responsibilities and organizational accountability, including the availability and allocation of resources allowing them to successfully meet task order requirements for services and support identified in [the PWS] for the potential IT activity areas outlined [in the 12 areas of IT support];

RFP at M-4. TELESIS asserts that it provided an organizational management structure chart that met the requirements under this area. TELESIS further claims that the unreasonableness of its reduced score in this area is demonstrated by the score's inconsistency with its proposal's relatively strong rating (3.3 out of 4 available points), and the agency's positive comments, under the following management approach area:

Contract management administration and responsiveness to performance and reporting requirements of the contract and its task orders, including a roles and responsibilities matrix for management of task orders services delivery

RFP at M-5. The evaluation in this area was reasonable. While TELESIS asserts that its chart "clearly shows the lines of communication between TELESIS's program manager and the Government," the record shows that TELESIS's proposal was downgraded for lack of detail regarding the project manager or contract manager "interfacing" with the contracting officer. AR, Technical Evaluation for TELESIS, at 1. We find nothing unreasonable in the agency's concluding that merely providing lines of communication on an organizational chart is insufficient to explain the manner in which interaction will occur between these individuals. Furthermore, the agency also downgraded TELESIS's proposal in this area based on its failure to discuss organizational management structure in terms of the 12 areas of IT support laid out in the solicitation, as called for by the quoted language. *Id.* Finally, we find no inconsistency between the ratings under the two evaluation areas, because the two areas provided for assessing different things. While the first area focused on offerors' organizational management structure, the second called for a roles and responsibilities matrix with regard to individual staff positions (the agency found this to be "clear" in TELESIS's proposal). We conclude that the evaluation in this area was unobjectionable.

EXPERIENCE

TELESIS challenges the agency's finding that it lacked experience providing IT services under a contract of the type, size and scope of the effort called for here. AR, Technical Evaluation for TELESIS, at 8-9. TELESIS asserts that it was unreasonable for the agency to downgrade its proposal for this reason, since no 8(a) firm could demonstrate experience performing a \$155 million--or approximately \$30 million per year--services contract.

This argument is without merit. The agency has advised us that the proposals of 1 Source and other offerors demonstrated experience performing IT contracts comparable to that being solicited here.³ In contrast, TELESIS's three largest relevant contracts were a \$15.6 million contract over 4 years (approximately \$4 million per year), a \$29 million contract over 5 years (approximately \$6 million per year), and a \$2.7 million contract over 2 years (approximately \$1.5 million per year). We conclude the agency reasonably downgraded TELESIS's proposal for lack of comparable experience.

PASS THROUGH RATE

TELESIS asserts that the agency incorrectly evaluated its subcontractor "pass through" rate, that is, the rate by which TELESIS will increase its subcontractor's charges when TELESIS bills the agency for those charges. The agency evaluated the rate as 9.5 percent. TELESIS maintains that, while its proposal stated its pass through rate is 9.5 percent, the agency should have evaluated it as 0 percent, since the proposal also stated "[t]he subcontractor pass through rate is the maximum pass through and under no circumstances will the rates to the Government exceed TELESIS' proposed ceiling rates." TELESIS Proposal, Parts 2-1, 2-5 (emphasis in original), attach. J-10. TELESIS asserts that this language means that, in the event Lockheed Martin charges TELESIS more than TELESIS's proposed labor rates, TELESIS will only bill DOT the labor rates contained in its proposal; only in the event that its subcontractor charges TELESIS less than the proposed labor rate will TELESIS charge DOT the 9.5 percent pass through rate. Consequently, according to TELESIS, it will never be reimbursed more than the proposed labor rates, and the pass through rate thus should have been evaluated as 0 percent.

The pass through rate evaluation was reasonable. TELESIS's proposal unequivocally states, without qualification, that "TELESIS is proposing a subcontractor pass through rate of 9.5%." TELESIS Proposal at Parts 2-1, 2-5. While TELESIS's proposal

³ We have reviewed this information in camera, since the protester was not represented by counsel; accordingly, we did not issue a protective order in this case, and the protester did not have access to other offerors' proposal information.

goes on to provide that the rates to the government will not “exceed TELESIS’s proposed ceiling rates,” the term “ceiling rates” is not explained or defined in the proposal. In particular, there is nothing in the proposal to support TELESIS’s claim that “ceiling rates” was intended to refer to the labor rates contained in the price proposal. This being the case, and given the unequivocal proposal language establishing a 9.5 percent pass through rate, the agency reasonably evaluated TELESIS’s proposal as providing for a 9.5 percent pass through rate. See DRS Sys., Inc., B-289928.3, B-289928.7, Sept. 18, 2002, 2002 CPD ¶ 192 at 16-17 (offeror has the burden of submitting an adequately written proposal and runs the risk that its proposal will be evaluated unfavorably where it fails to do so).

ADDITIONAL ARGUMENTS

The protester challenges the evaluation on numerous additional grounds. For example, the protester asserts that the agency improperly downgraded its proposal for lacking ID/IQ task order experience, for failing to state that it would use an “Earned Value Management” financial accounting system, and for failing to demonstrate experience with “automated tools,” among other assertions.

We need not address these arguments, since the record shows that the challenged areas of the evaluation had no material impact on the overall evaluation. Specifically, the arguments concern evaluation score reductions totaling only approximately 8 points. Thus, even if we found these arguments to have merit, TELESIS’s technical score would increase only from 59.52 to approximately 68 points. Given that TELESIS’s score would remain significantly lower than 1 Source’s technical score of 88.37 (as well as CIT’s score of 83.33), and that technical merit was more important than price, there is no reason to believe on this record that this revised score would affect the competitive range determination. See generally Scientific and Commercial Sys. Corp.; Omni Corp., B-283160 et al., Oct. 14, 1999, 99-2 CPD ¶ 78 at 19 (increasing protester’s technical score would be insufficient to affect award decision). Consequently, we cannot conclude that TELESIS was competitively prejudiced by any flaws in these areas of the evaluation. See McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3 (GAO will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions); see Statistica, Inc., v. Christopher, 102 F.3d 1577, 1581 (Fed. Cir. 1996).

The protest is denied.

Gary L. Kepplinger
General Counsel