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Decision

Matter of: Digital Solutions, Inc.

File: B-402067

Date: January 12, 2010

Ira E. Hoffman, Esq., Christopher C. Roberts, Esq., Karl W. Means, Esq., Alan S. Tilles, Esq., and Max R. Masinter, Esq., Shulman, Rogers, Gandal, Pordy & Ecker, PA, for the protester.

James J. McCullough, Esq., Steven A. Alerding, Esq., and William S. Speros, Esq., Fried Frank Harris Shriver & Jacobson LLP, for the intervenor.

Sandra M. Wozniak, Esq., National Science Foundation, for the agency.

Kenneth Kilgour, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that the agency improperly evaluated the quotations of the protester and the awardee is denied where, on the record, there is no basis on which to challenge the reasonableness of the agency's evaluations.

2. Protest that agency improperly evaluated the awardee's price is denied where, on the record, there is no basis to challenge the reasonableness of the agency's price realism analysis.

DECISION

Digital Solutions, Inc. (DSI), of McLean, Virginia, protests the issuance of a task order to Science Applications International Corporation (SAIC), of McLean, Virginia, by the National Science Foundation (NSF) under request for quotations (RFQ) No. DACS09Q2160 for performance of data center and infrastructure support services. DSI asserts that the agency improperly evaluated technical quotations and improperly evaluated SAIC's price.

We deny the protest.

NSF issued the RFQ to 17 General Service Administration (GSA) information technology Federal Supply Schedule (FSS) 70 vendors. The RFQ contemplated a time-and-materials task order, with a price ceiling. The evaluation factors, in

descending order of importance, were technical, past performance, and price. The technical factor contained seven detailed subfactors, listed in descending order of importance, four of which will be discussed below. Total price, including the option periods, would be evaluated for reasonableness and realism.¹ The selection decision would be based on a best value determination, considering technical, price, and past performance; when combined, the technical and past performance factors were significantly more important than price. RFQ at 18-19.

The agency received three timely quotations, including those of the protester and the winning vendor. The available adjectival ratings for evaluating the quotations were poor, fair, good, very good, and excellent; only the latter three, defined below, are applicable to this protest.

RATING	DEFINITION
Excellent	A comprehensive and thorough proposal of exceptional merit with one or more significant strengths. No deficiency or significant weakness exists.
Very Good	A proposal having no deficiency and which demonstrates over-all competence. One or more significant strengths have been found, and strengths outbalance any significant weaknesses that exist.
Good	A proposal having no deficiency and which shows a reasonably sound response. There may be significant strengths or significant weaknesses, or both. As a whole, significant weaknesses not offset by significant strengths do not significantly detract from the quoter's response.

AR, Tab 14, Award Recommendation Memo at 2. The adjectival ratings, in turn, used the following definitions:

TERM	DEFINITION
Significant Strength	An attribute in the proposal, which can be beneficial to the program or greatly increases the probability of successful contract performance.
Other Strength	An attribute of the proposal, which can be somewhat beneficial to the program or increases the probability of successful contract performance.
Significant Weakness	An attribute in the proposal that is a flaw and appreciably increases the risk of unsuccessful contract performance.

¹ Total estimated price was to show the division between the base tasks and deliverables and the supplemental tasks. The RFQ also required pricing volumes to provide labor categories and rates for each year for the base and supplemental tasks. RFQ at 17.

Other Weakness	An attribute in the proposal that is a flaw and increases the risk of unsuccessful contract performance.
Deficiency	A deficiency is a material failure of the proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that precludes successful contract performance.

Id. at 2-3.

The table below summarizes the agency's evaluation of DSI's and SAIC's quotations.

FACTOR	DSI	SAIC
Technical	Very Good	Very Good
Subfactor 1	Very Good	Very Good
Subfactor 2	Good	Very Good
Subfactor 3	Good	Very Good
Subfactor 4	Very Good	Good
Subfactor 5	Very Good	Very Good
Subfactor 6	Very Good	Excellent
Subfactor 7	Very Good	Excellent
Past Performance	Excellent	Excellent
Evaluated Price	\$49,096,184	\$47,860,746

Based on the higher ratings of SAIC's quotation under technical subfactors two, three, and six, and its evaluated price, approximately \$1.3 million less than that of DSI's quotation, NSF issued the task order to SAIC. AR, Tab 14, Award Recommendation Memo at 10-11. This protest followed.

ANALYSIS

The protester alleges that the agency improperly evaluated the quotations under each of the seven technical subfactors. We will discuss the challenges to the evaluation under four of them--the first, because it is the most important, and the second, third, and sixth technical subfactors because the agency identified them as discriminators between the quotations of the protester and the awardee.²

Where, as here, an agency issues an RFQ to FSS contractors under Federal Acquisition Regulation (FAR) subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent

² While our decision does not address the protester's challenges to the agency's evaluation of the other, less important technical subfactors, we reviewed those allegations and find them without merit.

with the terms of the solicitation. See GC Servs. Ltd. P'ship, B-298102, B-298102.3, June 14, 2006, 2006 CPD ¶ 96 at 6; RVJ Int'l, Inc., B-292161, B-292161.2, July 2, 2003, 2003 CPD ¶ 124 at 5. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations.³ OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4.

As discussed below, we see no reason to question the reasonableness of the agency's evaluation.

Technical Subfactor 1

The RFQ defined the first and most important subfactor as follows:

1. Demonstrated ability to support the variety of technical activities and services described in the statement of work, with emphasis on Oracle Sybase and Microsoft SQL Server Database Management Systems, as well as the Sybase Replication Server. NSF will evaluate the quoter's understanding of the work to be performed and the quoter's technical approach and ability to perform the requirements of the statement of work which includes understanding the specific tasks, including scope, technical environment, and significant issues.

RFQ at 18. As relevant here, one objective of the Statement of Work was to "[p]roactively and continuously seek innovative ways to apply [information technology] to improve NSF mission performance." Statement of Work at 8. After noting one significant strength, two strengths, and no significant weaknesses in the protester's quotation, the agency identified two weaknesses, the first of which was as follows:

- Emphasis in the proposal on maintaining existing operations with few proposals for improved operations/processes indicate that the offeror is not addressing one of the major objectives of the [statement of work] to "proactively and continuously seek innovative ways to apply [information technology] to improve NSF mission performance."

³ In other words, as the protester correctly noted, see Protester's Comments, Dec. 4, 2009, at 3-4, although FAR part 15 procedures are inapplicable under procurements such as this conducted under FAR part 8, this Office applies, by analogy, the same standard of review in either circumstance. See Carahsoft Tech. Corp., B-401169, B-401169.2, June 29, 2009, 2009 CPD ¶ 134 at 3 n.5.

AR, Tab 13, Technical Evaluation Report at 12, quoting Statement of Work at 8. The protester asserts that technical subfactor 1 contains a single requirement and that the agency improperly considered the second sentence of the subfactor to establish a separate, additional requirement for which it received a weakness. Thus, the protester argues, because it received a significant strength for its demonstrated ability to support a variety of technical programs, the agency was precluded from assessing the quotation a weakness under this same technical subfactor. We disagree.

Where a dispute exists as to the actual meaning of a solicitation requirement, we resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all provisions of the solicitation. Atlantic Research Corp., B-247650, June 26, 1992, 92-1 CPD ¶ 543 at 6. An interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. Id. We consider the plain language of the RFQ here sufficiently clear to put firms on notice that the agency would evaluate results achieved and the methodologies for achieving them.

The protester also challenges the agency's conclusion that its quotation warranted a weakness under technical subfactor 1 in the area of applying technology to improve agency operations. Under this subfactor, a quotation must demonstrate the vendor's technical approach to performing the requirements of the statement of work, one of which was to "[p]roactively and continuously seek innovative ways to apply [information technology] to improve NSF mission performance." AR, Tab 2, Statement of Work at 8. The protester points to numerous strengths and significant strengths noted by the agency in its evaluation of the protester's quotation under other technical subfactors. Protester's Comments on AR at 6-7. While those strengths address ways in which the protester proposed to improve operations and processes, they did not also indicate innovative ways that the protester would apply technology to improve the agency's performance.⁴ See id. (noting that DSI's

⁴ Without elaboration, the protester states that section three of its quotation "provided a detailed and expansive response" to the second sentence of the first technical subfactor. See Protester's Comments on the AR at 5. On the record, we see nothing unreasonable about the agency's conclusion that section three of DSI's quotation, titled "Demonstrated Ability to Quickly and Efficiently Adapt," did not provide an adequate explanation of how the firm would proactively and continuously seek innovative ways to apply information technology to improve NSF mission performance, as called for by the RFQ. Similarly unpersuasive is the protester's argument that, because this subfactor does not call for the "modernization" of the information technology infrastructure, as does subfactor 4, NSF was "double counting" the weakness. Protester's Comments on AR at 7-8. The weakness assessed under technical subfactor 4 was unrelated to the weakness assessed under technical subfactor 1; there simply was no double counting.

quotation demonstrated, for example, that the protester would “dedicat[e] engineering resources to address new projects,” had “the ability to quickly adapt their operation policies” and “a new system to track incidents,” would “build new infrastructure offsite” and “rollout [a] new virtualized [information technology] environment offsite,” and would split the engineering and operations staff--activities that were not tied in DSI’s quotation to the application of technology to improve agency performance).

DSI also argues that because its quotation accurately asserted that it had “leveraged innovative technologies,” the agency’s position that the quotation does not satisfy the statement of work requirement to seek “innovative ways to apply [information technology]” “defies reason.” Comments on the AR at 9. We do not find unreasonable the fact that the agency considers these requirements distinct. As discussed above, the RFQ required quoters to document both their achievements in certain areas and their methodology for achieving those results. The requirement to “seek innovative ways to apply innovative technologies” is future oriented, and the agency reasonably found that the protester, while having demonstrated an ability to leverage innovative technologies, did not also adequately describe its methods to apply such technologies.

In sum, the protester received a rating of “very good” under technical subfactor 1 and complains that it should have received instead the highest possible rating; for the above reasons, we see no merit to that claim.

The agency assessed a second weakness under its evaluation of technical subfactor one of the protester’s quotation:

- Domain expertise in strategic technologies, such as BEA^[5] ([statement of work] 1.4, 4.7.3) was not described in the proposal. This increases the risk to successful implementation of these technologies because domain expertise is difficult to obtain and could leave the quoter without a quality source of this knowledge.

AR, Tab 13, Technical Evaluation Report at 12. The protester argues that, because the statement of work makes no reference to “strategic technologies”--the phrase used by the agency to describe the weakness in the protester’s quotation--the agency must have employed an unstated evaluation criterion. Similarly, to the extent that the agency evaluators equated “strategic technologies” with “emerging technologies,” the protester argues that a word

⁵ BEA is a technology firm providing enterprise application infrastructure solutions. See <http://www.oracle.com/bea/index.html>.

search of “emerging technologies” revealed only two inapplicable uses of that term in the statement of work. As discussed above, our Office will examine the record to determine whether the agency’s evaluation is reasonable and consistent with the terms of the solicitation. See GC Servs. Ltd. P’ship, supra. A narrow reading of the solicitation and the evaluation that relies on word counts of specific phrases (as the protester suggests) fails to show that the agency’s evaluation was unreasonable.

Finally, and perhaps most important, the record contains no evidence that the specific allegation of weakness, that the protester’s quotation failed to describe domain expertise in strategic or emerging technologies, such as BEA, was inaccurate.

Technical Subfactor 2

The RFQ described the second technical subfactor as follows:

2. Demonstrated ability to quickly and efficiently adapt policies and procedures to reflect a change in the environment. NSF will evaluate the quoter’s management and technical approach to perform the requirements of the statement of work in a changing environment.

RFQ at 18. The agency assessed the protester’s quotation one significant strength, two strengths, and one significant weakness under technical subfactor 2. The significant strength and significant weakness stated:

Significant Strengths

- Quoter proposed dedicating engineering resources to address new projects, and changes in the environment. Isolating resources to this task enables the quoter to quickly adapt to changes in policies and procedures while mitigating the risk to ongoing operations.

* * * * *

Significant Weaknesses

- Quoter provides numerous examples of having adapted but does not specify the comprehensive technical approach used to quickly and efficiently adapt policies and procedures to a changing environment. This introduces significant risk to successful adaptation.

AR, Tab 13, Technical Evaluation Report at 12-13.

The protester first argues that the agency disparately evaluated quotations when it gave the protester's quotation a strength for demonstrating its ability to adapt at NSF, while the awardee's quotation was assessed a significant strength for demonstrating the ability to adapt at NSF and other federal agencies. Under the RFQ, quoters were not limited to a discussion of their prior experience with the agency, and we see nothing unreasonable in the agency's assessment that the wider experience of SAIC be more highly evaluated.⁶

The protester next challenges the agency's evaluation of SAIC's quotation. DSI alleges that the agency failed to acknowledge the training program contained in its quotation, while assigning a significant strength to the awardee's quotation for including a "robust" training program. AR, Tab 13, Technical Evaluation Report at 22. SAIC's quotation contains the following description of its training program:

Staff development is a critical component to effectively manage change. The SAIC team will continuously refine and improve our staff's training and skills to prepare them to quickly and efficiently adapt to change. Our staff is trained in our quality management systems annually to ensure their understanding and effective use of the [Preventive Action Request] and [Corrective Action Request] system. . . . Our performance management processes require that each employee set objectives for each annual performance period. Included in these objectives are new and upgraded training requirements that will be necessary to perform their job for the coming year.

AR, Tab 7, SAIC's Quotation at 16-17. There is no comparable training program in the protester's quotation. See AR, Tab 6, DSI's Quotation at 6, 15, and 18. Having reviewed both quotations, we find insufficient support in the record for the assertion that the protester's quotation contained a training program, or that the agency unreasonably assessed a significant strength for the training program under technical subfactor 2 of SAIC's quotation.

The protester also challenges the assessment of a significant strength in SAIC's quotation under technical subfactor 2 because the "[q]uoter demonstrated strength in communications to teams and to customers." AR, Tab 13, Technical Evaluation Report at 22 (emphasis added). The protester mischaracterizes this significant strength as reflecting the agency's assessment that the protester's quotation

⁶ The protester also adds up "practical illustrations" noted under the agency's evaluation of the competing quotations. Because the protester's quotation contains more illustrations but was not evaluated as highly, the protester argues that the agency's disparately evaluated the quotations. Comparing a tally of the number of illustrations to challenge the reasonableness of the agency evaluation, without more, provides no basis to question the reasonableness of the agency's evaluation.

contained the more effective communication plan. See Protester's Comments on the AR at 12-13 (noting that "DSI was also evaluated as having Strengths in its proposed communications plan" and that "SAIC was evaluated a Significant Strength for a one-paragraph communications 'plan'"). As the evaluation stated, SAIC's quotation was assessed a significant strength for having demonstrated strength in communications, an assertion unchallenged in the record. On this record, we have no basis to question the evaluation in this regard.

Technical Subfactor 3

The RFQ described the third technical subfactor as follows:

3. Demonstrated ability to conduct incident and problem management. NSF will evaluate the quoter's technical approach to incident and problem management.

RFQ at 18. The agency assessed the protester's quotation two significant strengths, two strengths, and the following two significant weaknesses under technical subfactor three:

- The [quotation] demonstrates a lack of proven methodology for ensuring there are comprehensive plans for eliminating root cause technical problems.
- Quoter's approach to incident and problem management did not utilize industry best practices. Industry best practices are proven repeatable methodologies.

AR, Tab 13, Technical Evaluation Report at 14. The protester challenges the assessment of these significant weaknesses and the assessment of the following significant strength under technical subfactor 3 of SAIC's quotation: "The quoter demonstrated their ability to respond to incident and problem management by citing examples." Id. at 23.

The protester asserts that the assessment of the first significant weakness under the evaluation of its quotation reflects disparate treatment on the part of the agency, in light of the significant strength noted above under the evaluation of the awardee's quotation. Specifically, the protester argues that, because its quotation was precluded from demonstrating methodology by citing examples, it was unreasonable for the agency to permit SAIC to demonstrate ability by citing examples. The agency credited SAIC's quotation with demonstrating an ability to respond to problems and faulted the protester's quotation for its failure to explain its "proven methodology." Again, demonstrating an ability to accomplish a portion of the statement of work is different from explaining one's approach or methodology, and we see nothing unreasonable in the agency's view that ability, but not methodology, may be substantiated by reference to past efforts.

The protester also challenges the agency's assessment of the second weakness noted above--that the protester's approach to problem management did not utilize industry best practices--arguing that the agency employed an unstated evaluation criterion when considering whether firms proposed the use of industry best practices. We disagree. Although agencies are required to identify in a solicitation all major evaluation factors, they are not required to identify all areas of each factor that might be taken into account in an evaluation, provided that the unidentified areas are reasonably related to or encompassed by the stated factors. Chenega Tech. Prods., LLC, B-295451.5, June 22, 2005, 2005 CPD ¶ 123 at 5; STEM Int'l, Inc., B-295471, Jan. 24, 2005, 2005 CPD ¶ 19 at 7. The requirement here was a demonstrated ability to conduct incident and problem management and a technical approach to doing so. The information technology field has a widely recognized organization that promulgates industry standards,⁷ and SAIC's quotation stated that SAIC would follow those standards. See AR, Tab 7, SAIC's Quotation at I-7. In our view, under the circumstances here, whether quotations proposed the use of industry best practices was reasonably related to or encompassed by the stated evaluation criterion, a demonstrated ability to conduct incident and problem management.

Technical Subfactor 6

The RFQ described technical subfactor 6 as follows:

6. Qualifications of Key Personnel Proposed, including the demonstrated competency and quality of the professional key personnel proposed and their experience in rendering services and achieving program objectives similar to those described in the statement of work. NSF will evaluate proposed key personnel for high-level capabilities related to the tasks described in the Statement of Work.

RFQ at 18. Technical subfactor six was the final subfactor identified by the agency as a discriminator in the award decision. The protester asserts that the agency unreasonably evaluated SAIC's quotation as excellent and its own quotation as very good, given that both firms proposed first-rate program and deputy program managers, and DSI, in addition, proposed 10 well-qualified key personnel. Both firms' quotations were assessed significant strengths, and no other strengths or any weaknesses, under this technical subfactor. The agency argues that it reasonably assessed the respective quality of the personnel proposed and that the protester's objections amount to mere disagreement. In particular, although both of the

⁷ Information Technology Infrastructure Library (ITIL)® is described as "the most widely accepted approach to information technology service management in the world, . . . provid[ing] a cohesive set of best practice, drawn from the public and private sectors internationally." <http://www.itil-officialsite.com/home/home.asp>.

proposed program managers were deemed qualified, the individual proposed by SAIC was found to be more beneficial because he had an M.S. degree in mathematics/operations research and 35 years of relevant experience, and his resume recounted years of experience relevant to each of the tasks under the statement of work. See AR, Tab 7, SAIC's Quotation, App. A at 1-2. On the record before us, we see nothing unreasonable in the agency's determination that SAIC's quotation offered greater benefit to the government under technical subfactor 6.

In summary, the root of many of the challenges to the agency's technical evaluations is the assertion that it was improper for the agency to evaluate separately the demonstration of results and the description of the method for achieving results. The RFQ stated that the agency would evaluate quotations on both bases, across technical subfactors, and the agency's evaluations were consistent with that stated intent. Our review of all of the protest allegations against the technical evaluations finds no basis on which to challenge the reasonableness of the agency's judgment. Further, we see no basis to question the agency's decision that SAIC's lower-priced quotation offered a number of advantages—including greater demonstrated ability to quickly and efficiently adapt policies and procedures in a changing environment and greater demonstrated ability to conduct incident and problem management—over DSI's quotation.

Price Evaluation

The protester argues that the agency credited the awardee's quotation with efficiencies not explicitly claimed in it, and thus the agency improperly concluded that the hours quoted in the out years of performance were realistic. DSI does not argue that the processes proposed by SAIC will not lead to the claimed efficiencies, but rather that the agency failed to analyze the validity of SAIC's assumptions, Comments on AR at 27-28, and that it was unreasonable for the agency to rely on those efficiencies absent specific assertions by SAIC that certain processes would reduce the required labor hours throughout performance of the contract. Protester's Comments, Dec. 11, 2009, at 11-12.

As noted above, the RFQ stated that total price, including the option periods, would be evaluated for reasonableness and realism. In a solicitation calling for performance on a time-and-materials basis (like the RFQ here), absent specific requirements in the solicitation imposing additional requirements, the nature and extent of an agency's price analysis are matters within the agency's discretion. Resource Consultants, Inc., B-293073.3 et al., June 2, 2004, 2005 CPD ¶ 131 at 7. The agency's documented review here is sufficient to meet the RFQ requirement for a price realism analysis. The record contains evidence that the contract specialist and the technical evaluation team and its team leader all considered SAIC's labor

hours and mix of labor hours.⁸ See AR, Tab 23, Declaration of Contract Specialist at 5; AR, Tab 24, Declaration of Head of Technical Evaluation Team at 10-11. With respect to the protester's specific allegation, the technical evaluation team identified portions of the awardee's quote that the team believed would enable it to realize the efficiencies necessary to reduce labor hours in out years. AR, Tab 24, Declaration of Head of Technical Evaluation Team at 10-11. The protester's assertion that the quotation itself did not identify those same portions of its quotation as producing efficiencies in no way renders unreasonable the agency's assessment that the awardee could, through efficiency gains, achieve the projected labor hour reductions.⁹

The protest is denied.

Lynn H. Gibson
Acting General Counsel

⁸ This review also was consistent with FAR § 8.405-2(d), which states that where, as here, the agency will be ordering services priced at hourly rates under vendors' FSS contracts, the agency is responsible for considering the level of effort and mix of labor proposed. In this regard, when considering the proposed labor hours and mix of labor hours, agencies are not required to conduct a formal evaluation of the kind typically performed in a negotiated procurement under FAR part 15. See Advanced Tech. Sys., Inc., B-296493.6, Oct. 6, 2006, 2006 CPD ¶ 151 at 10.

⁹ DSI also argues that SAIC's proposed price was unbalanced. On the record, we see no evidence that it was.