



United States Government Accountability Office
Washington, DC 20548

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Decision

Matter of: General Dynamics Information Technology, Inc.

File: B-406059.2

Date: March 30, 2012

Thomas L. McGovern III, Esq., and Andrew C. Ertley, Esq., Hogan Lovells US LLP, for the protester.

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Capt. Joon K. Hong, Department of the Army, for the agency.

Eric M. Ransom, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Selection of a higher-rated, higher-priced proposal was reasonable where agency found that the awardee's outstanding technical and staffing approach outweighed the protester's lower price.

2. Protest alleging that agency held unequal discussions is denied where the discussions were tailored to address different concerns associated with each firm's proposal.

DECISION

General Dynamics Information Technology, Inc. (GDIT), of Fairfax, Virginia, protests the issuance of a task order to NCI Information Systems, Inc., of Reston, Virginia, by the Department of the Army, under solicitation No. W91247-11-ITES-0001, for Network Enterprise Center information technology support services. GDIT maintains that the agency's award decision was not properly documented and fundamentally unreasonable, and that the agency's discussions were unequal.

We deny the protest.

BACKGROUND

The solicitation, issued on July 8, 2011 as a task order competition among multiple indefinite-delivery/indefinite-quantity contract holders pursuant to Federal

Acquisition Regulation (FAR) Subpart 16.505, contemplated the issuance of a task order for comprehensive, integrated, end-to-end information technology services, in support of the Army's Network Enterprise Center. The solicitation provided for the award of a fixed-price task order with a phase-in period, base year, and two option years. NCI is the incumbent contractor under a previous technology services task order issued in September, 2010.

The solicitation set forth a best value evaluation scheme with three evaluation factors: technical approach, staffing approach, and price. Amended Solicitation at 55. The solicitation advised that technical approach was more important than staffing approach, and that these two non-price factors, when combined, were significantly more important than price, but as proposals approached equal under the non-price factors, price would become more important under any tradeoff decision. Id. The solicitation also utilized an adjectival rating scheme, with ratings of outstanding, good, acceptable, marginal, and unacceptable. Id. at 56.

Multiple contract holders submitted responses to the solicitation, including GDIT and NCI. On the basis of an initial evaluation, the Army rated GDIT acceptable under the technical approach factor and marginal under the staffing approach factor, while rating NCI outstanding under the technical approach factor and good under the staffing approach factor. Initial Technical Evaluation, at 5. The agency determined that GDIT's evaluated price was \$17,577,191.22, and NCI's evaluated price was \$21,702,407.18. Initial Price Evaluation, at 3.

After concluding the initial evaluation, the Army conducted discussions limited to GDIT and NCI. Following a first round of discussions, the Army was concerned that its correspondence with GDIT may have created confusion in the areas of staffing and price. The Army therefore conducted a second round of discussions to clarify the intent of its earlier discussion questions, and to afford GDIT an additional opportunity to revise its response. Agency Report, Tab 16, Second GDIT Discussions Letter. The Army also took the opportunity to advise NCI that its price appeared high, and that several specific labor rates appeared overstated. AR, Tab 18, Second NCI Discussions Letter. The Army then conducted a final evaluation, rating GDIT good under the technical approach factor and acceptable under the staffing approach factor. Final Technical Evaluation, at 3. NCI received ratings of outstanding under both the technical approach and the staffing approach factors. Id. GDIT's final evaluated price was \$16,897,460.90, and NCI's final evaluated price was \$20,752,010.47. Final Price Evaluation, at 3.

In its task order decision document (TODD), the selection authority (SA) concluded that:

The non-cost benefits offered by NCI's superior rated Technical Approach and Staffing Approach will provide the Government superior quality of work through highly qualified personnel; potential

cost avoidance through very low risk of vital IT requirements not being completed on schedule; and very low risk of unsuccessful performance.

As the Technical Approach and Staffing Approach, when combined, are significantly more important than price, I have determined that NCI's non-cost evaluated ratings are worth the additional price premium over GDIT's lower rated Staffing Approach and Technical Approach proposals, and represent the better value to the Government. NCI's approach does cost the Government more, but the benefits to the Government far outweighs that extra cost. The extra cost associated with NCI's approach is clearly worth the benefit to the Government and is worth the price premium.

TODD, at 5-6. The Army then issued the task order to NCI on December 6. GDIT requested a debriefing on December 16, which the Army provided on December 21. This protest followed on December 27.

GDIT argues that the Army's award decision is conclusory, unsupported, and fails to reasonably consider whether NCI's proposal is worth the associated price premium.¹ Additionally, GDIT contends that the Army's discussions were insufficient or unequal. The Army responds that the award decision properly analyzed both the various strengths of the two offerors and the higher cost of acquiring NCI's services versus the lower cost of acquiring GDIT's services. The Army also maintains that it conducted fair and adequate discussions where it apprised GDIT of all of its response's weaknesses, allowed GDIT an additional opportunity to correct its staffing plan, and afforded NCI an opportunity to lower its price. We agree with the Army.

¹ This is the second award decision in this procurement. The Army initially made an award to NCI, which was challenged by a GDIT protest. The agency then took corrective action in order to reevaluate its award decision. After reevaluation, the Army again made award to NCI. In response to this current award to NCI, GDIT expends significant effort arguing that this award decision document is conclusory or unsupported as compared to the earlier award decision document. The prior award decision is not the relevant standard for reviewing the agency's selection decision, however. As explained below, source selection decisions must be documented and the documentation must include the rationale for any tradeoffs made, but source selection officials have broad discretion, and their exercise of that discretion in making award is governed only by the tests of rationality and consistency with the evaluation criteria. As also explained below, we conclude that the agency's selection decision met this standard.

DISCUSSION

Best Value Trade-off

Source selection officials in negotiated procurements have broad discretion in determining the manner and extent to which they will make use of technical and price evaluation results; price/technical trade-offs may be made, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the evaluation criteria. Atteloir, Inc., B-290601, B-290602, Aug. 12, 2002, 2002 CPD ¶ 160 at 5. Where a price/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs. Federal Acquisition Regulation (FAR) § 15.308; The MIL Corp., B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 13. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision, nor is there a requirement to quantify the specific cost or price value difference when selecting a higher-priced higher-rated proposal for award. FAR § 15.308; Advanced Fed. Servs. Corp., B-298662, Nov. 15, 2006, 2006 CPD ¶ 174 at 5.

Here, based on our review of the record, we conclude that the award decision was not conclusory, or a mere mechanical comparison of the evaluation factor ratings, as GDIT has alleged. Rather, it is apparent that the SA's award decision was properly documented, and that the documentation included the rationale for the trade-off decision, including the benefits associated with NCI's higher-priced proposal.

Specifically, the record demonstrates that the SA looked behind the factor ratings assigned by the Task Order Evaluation Board (TOEB) and independently analyzed the strengths of the responses. By way of example, the SA highlighted two of five strengths from the TOEB's evaluation of GDIT's proposal under the technical approach factor that, in his view, supported GDIT's "good" rating under this factor. TODD at 3. In a similar manner, the SA cited nine specific significant strengths and strengths from the TOEB's evaluation of NCI's proposal under the technical approach factor that supported NCI's "outstanding" rating. These included, for instance, NCI's utilization of personnel that exceeded job qualifications, which, according to the SA, "allows for agility and adaptability in providing dependable services," the fact that NCI "demonstrated an excellent understanding of [DELETED]," and that NCI proposed to "[DELETED]." Id. at 4-5.

Ultimately, the SA concluded that the technical and staffing advantages of the NCI proposal were real and substantial and concluded that:

The non-cost benefits offered by NCI's superior rated Technical Approach and Staffing Approach will provide the Government

superior quality of work through highly qualified personnel; potential cost avoidance through very low risk of vital IT requirements not being completed on schedule; and very low risk of unsuccessful performance . . . [and] that NCI's non-cost evaluated ratings are worth the additional price premium over GDIT's lower rated Staffing Approach and Technical Approach proposals, and represent the better value to the Government.

TODD at 5. Based on this record, we find no merit in the protester's allegations that the award decision was conclusory and unsupported.

GDIT also argues that the SA's best value trade-off decision was uninformed and fundamentally unreasonable. According to GDIT, the Army's entire trade-off decision rests on the assumption that NCI proposed more highly qualified personnel. GDIT contends, however, that these personnel were not more highly qualified, and that the agency simply presumed NCI's personnel were more highly qualified in light of NCI's [DELETED] labor rates. GDIT also asserts that the price difference between the responses was not, in fact, related to NCI's purported utilization of more highly qualified personnel but rather NCI's [DELETED] prices and [DELETED] discounts. Id. Consequently, GDIT believes that the Army did not understand the reasons for the differences in price between NCI's and GDIT's responses, or what it was getting in return for NCI's much higher price.

GDIT's arguments are premised on mischaracterizations of the record and are without merit. First, we disagree that the Army's entire best value determination rests on the assumption that NCI proposed more highly qualified personnel. The award decision document demonstrates that the best value tradeoff was based on the various strengths and significant strengths underlying NCI's outstanding ratings. As noted above, the SA believed that the strengths associated with NCI's proposal "will provide the Government superior quality of work through highly qualified personnel; potential cost avoidance through very low risk of vital IT requirements not being completed on schedule; and very low risk of unsuccessful performance." TODD, at 5. It is simply not accurate to contend that the "entire best value determination" rests on the SA's belief that NCI offered highly qualified personnel.

Second, there is no basis for GDIT's assertion that the agency blindly associated the [DELETED] labor rates of NCI's personnel with superior qualifications. To the contrary, the record reflects that the agency assessed the quality of NCI's personnel based on its review of information contained in the portion of NCI's proposal concerning its staffing approach, as opposed to NCI's labor cost information. For example, in its evaluation of NCI's staffing approach the TOEB concluded that NCI's approach for key personnel was excellent, and that "[i]n most positions the personnel they propose exceed the government requirements." Final Technical Evaluation at 9. The TOEB also determined that NCI had ensured that "[DELETED] personnel are committed and will be available for the start of the

contract,” and that “[DELETED] personnel have qualifications related to their position that are well above the [solicitation] requirements.” Id. at 9-10.

Finally, to the extent GDIT complains that the award decision was flawed because the SA did not know or understand the actual cost factors driving NCI’s higher price, the allegation is misplaced. The solicitation provided for the issuance of a fixed-price task order and did not require the agency to perform any cost realism analysis, nor was the agency required to reconcile the technical and price proposals. Furthermore, there is no requirement that the agency quantify specific technical advantages corresponding to specific price elements when selecting a higher-priced higher-rated proposal for award. See FAR § 15.308; Advanced Fed. Servs. Corp., supra. Instead, the extent to which lower price may be sacrificed for high technical quality is governed only by the tests of rationality and consistency with the evaluation criteria. See Atteloir, Inc., supra. In this case, where the solicitation advised that the technical approach factor was more important than the staffing approach factor, and that the two non-price factors, when combined, were significantly more important than price, we see nothing unreasonable in the SA’s determination that NCI’s superior technical approach and staffing approach were worth a significant price premium.²

Discussions

² GDIT also asserts that the higher-than-required qualifications of NCI’s incumbent personnel should not have been considered a discriminator because GDIT proposed to hire the incumbent personnel, and that, in any event, NCI was not bound to provide the specific personnel in its response, other than key personnel. First, GDIT is not entitled to receive evaluation credit for individuals that it did not propose, despite its plan to retain incumbent personnel. See A-Tek, Inc., B-404581.3, Aug. 22, 2011, 2011 CPD ¶ 188 at n.8. Second, without regard to whether NCI is bound to provide the exact personnel identified in its response, the solicitation set forth an evaluation of staffing approach that included “the proposed qualifications, knowledge, skills, security clearances, and education levels for each proposed labor category and key personnel,” as well as the firms’ ability to “acquire trained and experienced personnel, meet all security requirements, perform required training, [and] obtain required certifications, licenses and endorsement.” Amended Solicitation at 57. We see no error in the Army’s evaluation of NCI’s staffing in light of the above evaluation criteria. We also note that GDIT did not challenge NCI’s overall technical approach and staffing approach ratings of outstanding, or its own ratings of good and acceptable. Accordingly, GDIT’s arguments contending that it offered essentially the same capabilities as NCI, reflect little more than mere disagreement with the Army’s evaluation.

GDIT contends that the Army's discussions were unequal. As an initial matter, GDIT concedes that the Army appraised it of all weaknesses found in its initial response, and further clarified its items for discussion following GDIT's first revised response. Nonetheless, GDIT maintains that it should also have been advised of areas where its response could have been improved (such as by proposing more highly qualified personnel). According to GDIT, it was entitled to more extensive discussions since the Army made NCI more competitive by advising NCI during discussions that its price appeared high and that its labor rates, in numerous instances, appeared to be "significantly overstated." NCI Discussion Ltr., at 1.

Our Office will review task order competitions to ensure that the competition is conducted in accordance with the solicitation and applicable procurement laws and regulations. Imagine One Tech. & Mgmt., Ltd., B-401503.4, Aug. 13, 2010, 2010 CPD ¶ 227 at 7. In this regard, FAR § 16.505 does not establish specific requirements for discussions in a task order competition; exchanges in that context, like other aspects of such a procurement, must be fair. Generally, discussions, when conducted under FAR Part 15, must address deficiencies and significant weaknesses identified in proposals, however, the precise content of discussions is largely a matter of the contracting officer's judgment. See FAR § 15.306(d)(3); American States Utils. Servs., Inc., B-291307.3, June 30, 2004, 2004 CPD ¶ 150 at 6. While offerors must be given an equal opportunity to revise their proposals, and the Federal Acquisition Regulation (FAR) prohibits favoring one offeror over another, discussions need not be identical; rather, discussions must be tailored to each offeror's proposal. FAR §§ 15.306(d)(1), (e)(1); WorldTravelService, B-284155.3, Mar. 26, 2001, 2001 CPD ¶ 68 at 5-6.

Here, we do not agree that the agency acted more favorably toward NCI by advising it that its price appeared high or that certain of its labor rates appeared overstated. While the agency did not assign ratings to the price proposals or otherwise consider NCI's price or labor rates to be weaknesses requiring a discussion item, it is inherently within an agency's discretion to inform an offeror during discussions that its price appears to be high in comparison to other offeror's proposed prices. DeTekion Security Systems, Inc., B-298235, B-298235.2, July 31, 2006, 2006 CPD ¶ 130 at 13. Moreover, the Army was not required to note areas where GDIT could have exceeded the agency's requirements--such as in the qualifications of its proposed personnel--as a consequence of having held discussions with NCI regarding its pricing. Rather, as noted above, discussions must be tailored to each offeror's proposal and agencies are not obligated to spoon-feed offerors as to each

and every item that could be revised to improve their proposals. ITT Indus. Space Sys., LLC, B-309964, B-309964.2, Nov. 9, 2007, 2007 CPD ¶ 217 at 12. Accordingly, we see no error in the Army's conduct of discussions in this case.

The protest is denied.

Lynn H. Gibson
General Counsel