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Decision

Matter of: Caduceus Healthcare, Inc.

File: B-407791

Date: February 21, 2013

Jason A. Mirabella, Esq., Caduceus Healthcare, Inc.; and Daniel S. Koch, Esq., Miles & Stockbridge, P.C., for the protester.
Capt. Tудо N. Pham, Department of the Army, for the agency.
Peter D. Verchinski, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's evaluation of proposals is denied where the record shows that the agency's evaluation was reasonable and consistent with the solicitation's evaluation methodology.

DECISION

Caduceus Healthcare, Inc., of Atlanta, Georgia, protests the rejection of its proposal as unacceptable under request for proposals (RFP) No. W81K04-11-R-0018, issued by the Department of the Army, for medical services. Caduceus challenges the agency's technical evaluation of its proposal.

We deny the protest.

BACKGROUND

The RFP, issued on September 15, 2011, sought offers for physician services in all medical specialties for military treatment facilities within the U.S. Army Medical Command in the Southern Region of the United States.¹ Offerors were informed that multiple awards would be made on a best value basis, considering price and the following two technical evaluation factors: technical quality and performance

¹ The RFP was amended 10 times. Our citations are to the conformed copy of the RFP.

risk (past and present performance). The technical quality evaluation factor was equal in weight to the performance risk evaluation factor, and the two factors combined were significantly more important than price. RFP at 69.

The technical quality evaluation factor included three subfactors: contractor quality control plan; management capabilities; and, recruitment and retention. RFP at 70. The contractor quality control plan was to be evaluated for

the extent to which it meets the Government’s quality requirements as well as monitoring performance; identifying trends/problems/issues; resolving and preventing quality assurance problems; documentation, record maintenance, and reporting of quality related problems; and identifying deficiencies before the level of services becomes unacceptable.

RFP at 70. In order to be considered for award, offerors had to receive a rating of no less than “acceptable” under all technical evaluation factors and subfactors.² RFP at 69.

In response to the RFP, the agency received 27 offers. Caduceus’s proposal was evaluated as follows:

		Caduceus
Technical Quality		Marginal
	Contractor Quality Control Plan	Marginal
	Management Capabilities	Acceptable
	Recruitment and Retention	Outstanding
Performance Risk (Past and Present Performance)		Satisfactory Confidence
Price		\$605,373,450

Agency Report (AR), Tab 20, Pre-Award Debriefing Slides, at 9-14, 16, 17.

² The possible technical ratings were outstanding, good, acceptable, marginal, and unacceptable. RFP at 70-71. An acceptable rating was defined as a proposal that meets the requirements, has an adequate approach and understanding of the requirements, has strengths and weaknesses that are offset or will have little or no impact on performance, and has a risk of unsuccessful performance that is no worse than moderate. Id. at 71. A marginal rating was defined as a proposal that does not clearly meet the requirements, has not demonstrated an adequate approach and understanding of the requirements, has one or more weaknesses that are not offset by strengths, and has a high risk of unsuccessful performance. Id.

The adjectival evaluation ratings were supported by a narrative discussion that identified the respective strengths, weaknesses, and deficiencies found in each firm's proposal.³ As relevant here, Caduceus's marginal rating under the contractor quality control plan subfactor reflected the evaluators' determination that the proposal had numerous weaknesses, including a failure to fully describe how the offeror's quality control plan would assure documentation and records maintenance, a failure to offer a dedicated quality control manager,⁴ a failure to provide a clear and unfragmented approach to monitoring contract performance and identifying problems, a failure to reference which quality control plan the offeror was using,⁵ and a failure to include comprehensive measures of the quality of provided services (beyond relying on patient satisfaction scores). See AR, Tab 17, Summary Technical Evaluation Worksheet Consensus, at 4-5.

Because Caduceus received a marginal rating under this evaluation subfactor, the agency rejected the firm's proposal as unacceptable.

Following a pre-award debriefing, Caduceus filed this protest.

DISCUSSION

Caduceus challenges each of the identified weaknesses under the contractor quality control plan subfactor, asserting that its proposal either provided an adequate response such that the agency's finding of a weakness was unreasonable, or that the identified weakness was the result of applying evaluation criteria not found in the RFP.

In reviewing protests against allegedly improper evaluations, our Office examines the record to determine whether the agency's evaluation was, in fact, in accord with the stated evaluation factors. Computer Prods., Inc., B-284702, May 24, 2000, 2000 CPD ¶ 95 at 4-5; Computer Assocs. Int'l, Inc., B-292077.3 et al., Jan. 22, 2004, 2004 CPD ¶ 163 at 6. A protester's mere disagreement with an agency's judgment is not sufficient to establish that an agency acted unreasonably. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3. For the reasons explained below, we find the record establishes that the Army evaluated proposals

³ A weakness was defined as a flaw in the proposal that increases the risk of unsuccessful contract performance. AR, Tab 16, Evaluation Procedures, at 1.

⁴ Caduceus's plan had designated the project director as the individual in charge of overall quality control.

⁵ The evaluation noted that possible examples of quality control plans include ISO (International Standards Organization), LSS (Lean Six Sigma), or TQM (Total Quality Management). AR, Tab 17, Consensus Technical Evaluation, at 5.

reasonably and in accordance with the RFP's announced methodology for evaluating proposals. Although we do not specifically address each of Caduceus's arguments, we have fully considered all of them and find that they afford no basis to question the agency's evaluation here.

Caduceus challenges the weakness assessed in its proposal for failing to fully describe how its quality control plan will assure documentation and records maintenance. The protester asserts that its proposal addressed this matter, and supports this by citing to several sections in its proposal. However, the Army found, and we agree, that Caduceus had offered in its proposal only "vague references" to its documentation maintenance processes and procedures. AR, Tab 17, Consensus Technical Evaluation, at 5. In this regard, Caduceus's proposal failed to provide plan specifics, such as components of its system, including what documents or reports would be retained, through what means they would be maintained, and who would be responsible for managing the system. *Id.* Caduceus does not otherwise explain how its proposal provided this information, but instead provides only general citations to its proposal.⁶ Given this, we conclude that Caduceus is merely disagreeing with the agency's evaluation, and such disagreement is not sufficient to show that the evaluation was unreasonable.⁷

Caduceus also claims that the agency used unstated evaluation criteria in identifying the following as weaknesses in the protester's proposal: its failure to

⁶ For example, under "Record Maintenance," Caduceus's proposal states that its team practices excellent record maintenance; that any written material or documentation in support of its performance will be available and subject to inspection and review by the contracting officer; and that it will use [DELETED]. AR, Tab 15, Protester's Proposal, Vol. II, at 17.

⁷ Caduceus also asserts that the agency was unreasonable in finding that the firm had failed to identify the model of its quality control plan (for example, ISO, LSS, TQM, etc.). The protester asserts that its quality control plan "was very similar in substance--if not in nomenclature--to the models identified" by the agency. Protest at 9. In response, the agency explains that the solicitation did not require offerors to propose a certain model of quality control plan, nor did the government require any particular plan, but the agency nevertheless found that the absence of any model in Caduceus's proposal meant "a lack of attention to any quality system." AR, Tab 2, Contracting Officer's Statement at 6. In this regard, the agency found that Caduceus's proposed plan-do-check-act (PDCA) methodology for quality improvement was "minimally effective" for realizing focused and lasting quality improvements. AR, Tab 17, Consensus Technical Evaluation, at 5. While the protester disagrees with the agency's judgment in this regard, it has not shown it to be unreasonable.

offer a dedicated quality control manager, to identify any specific quality control plan, and to devise quality control metrics related to patient outcomes. Caduceus asserts that the RFP did not require offerors to provide this information.

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. Master Lock Company, LLC, B-309982.3, Dec. 10, 2008, 2009 CPD ¶ 6 at 5.

We do not find that the Army used unstated evaluation criteria in evaluating Caduceus's proposal. With regard to the lack of a dedicated quality control manager, the RFP specifically informed offerors that their quality control plans would be evaluated for the ability to resolve and prevent quality assurance problems. RFP at 70. Addressing project quality management in its proposal, Caduceus indicated that its project director has overall quality control and project management responsibility, and stated that, to properly monitor performance, Caduceus's project director performs [DELETED]. AR, Tab 15, Protester's Proposal, Vol. II, at 6. In its evaluation, the Army questioned the plausibility of having one person be responsible for the competing (and potentially conflicting) demands of operation and quality assurance requirements, and concluded that it was "not an ideal solution for an effective [quality assurance] program"—in short, a weakness. AR, Tab 17, Consensus Technical Evaluation, at 4. The agency explains, and the protester does not dispute, that a "basic [tenet] of Quality Systems is the separation of production/management and quality control/assurance responsibilities." Id. Caduceus's proposal suggested that the same person would be responsible for these roles, and did not indicate anyone else would be assigned to manage quality assurance or quality control, and the agency took that information into account in evaluating the protester's approach.⁸ In our view, the agency's consideration of the protester's approach to managing or staffing its quality control plan is reasonably encompassed within the quality control plan evaluation subfactor.

⁸ While the protester argues that, in fact, its corporate general counsel serves as the quality control director on all government contracts, see Protest at 6; Protester's Comments at 2, this information was not included in its proposal. Caduceus contends that it did not disclose this information because the solicitation did not mention a requirement to do so. We do not find this argument persuasive. Again, we find the matter of who would be responsible for quality control is directly related to an offeror's quality control program. To the extent the protester represents its proposal failed to accurately portray how it would manage (or who would manage) its quality control plan, we note that the offeror is responsible for submitting an adequately written proposal for the agency to evaluate. See Caldwell Consulting Assocs., B-242767, B-242767.2, June 5, 1991, 91-1 CPD ¶ 530 at 6.

Similarly, we do not find the Army's assessment of weaknesses for Caduceus's failure to devise comprehensive quality control metrics related to more than patient satisfaction scores (such as clinical outcomes, or care time), and its failure to reference any specific quality control plan, to be inconsistent with the RFP. Rather, we find that these matters, too, are directly related to the firm's approach to monitoring the quality of contract performance.

The protest is denied.

Susan A. Poling
General Counsel