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Decision

Matter of: Valbin Corporation

File: B-416680

Date: November 9, 2018

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Gregory A. Moritz, Esq., Major Christopher M. Kovach, Max D. Houtz, Esq., and Jessica A. Easton, Esq., Defense Intelligence Agency, for the agency.
Louis A. Chiarella, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of protester's technical proposal is denied where the evaluation was reasonable and consistent with the stated evaluation criteria, adequately documented, and without prejudice to the protester as a result of the alleged errors.

DECISION

Valbin Corporation, of Bethesda, Maryland, protests the award of a contract to Leidos, Inc., of Reston, Virginia, under request for proposals (RFP) No. HHM402-18-R-0004, issued by the Defense Intelligence Agency (DIA) for the agency's National Media Exploitation Center (NMEC) Linguist Intelligence Operations NMEC (LION) services. Valbin alleges that the agency's evaluation of its technical proposal was improper.

We deny the protest.

BACKGROUND

The DIA provides military intelligence to warfighters, defense policymakers, and force planners in the Department of Defense (DOD) and the intelligence community in support of United States military planning and operations.¹ The role of the DIA NMEC is

¹ About DIA, <http://www.dia.mil/About> (last visited Nov. 8, 2018).

to furnish strategic document and media exploitation (DOMEX) in furtherance of the agency's overall mission. Agency Report (AR), Tab 5, RFP amend. 2, Performance Work Statement (PWS) § 1.0.² The NMEC's operational responsibilities include "the receipt, forensic processing, screening/gisting, translation, reporting, and archiving of captured, seized or otherwise acquired hard copy or electronic documents and media, and may include preparation for or analysis of such media." Id.

The RFP, issued on January 19, 2018, contemplated the award of a cost-plus-award-fee contract for a base year with four 1-year options. In general terms, the LION PWS required the contractor to provide all personnel necessary to support the NMEC's operational responsibilities, provide foreign language and content exploitation of digital media and documents, and perform translation services. PWS §§ 2.0, 3.0. The RFP established that contract award would be made on a best-value tradeoff basis, based on five evaluation criteria: security; small business participation; technical approach; past performance; and cost.³ RFP amend. 1 §§ M.1.1, M.1.2. The technical approach factor consisted of four equal "sub-paragraphs:" translation and other language services; translation project management; recruitment; and startup transition plan and staffing plan.⁴ Id. at 104-105. Technical approach was significantly more important than past performance, and these two noncost factors, when combined, were significantly more important than cost. Id. at 102.

Eight offerors, including Leidos and incumbent Valbin, submitted proposals by the March 5 closing date. An agency technical evaluation team (TET) evaluated offerors' proposals using various adjectival rating schemes that were set forth in the solicitation as follows: outstanding, good, acceptable, marginal, or unacceptable for the technical approach factor; and substantial confidence, satisfactory confidence, neutral confidence, limited confidence, and no confidence for the past performance factor. Id. at 104-106. A separate cost evaluation team assessed, but did not rate, offerors' cost submissions for both reasonableness and realism.

The final evaluation ratings and costs of the Leidos and Valbin proposals were as follows:

² The RFP was subsequently amended twice. A conformed copy was not provided, therefore, all citations are to the final version of the solicitation and PWS.

³ The RFP established that an offeror was required to receive a "pass" rating for the security factor, and an "acceptable" rating for small business participation factor, in order for the proposal to be further considered for award. RFP amend. 1 § M.2.

⁴ The RFP stated that only an overall rating would be given for the technical approach factor. Id.

	Leidos	Valbin
Security	Pass	Pass
Small Business Participation	Acceptable	Acceptable
Technical Approach	Outstanding	Acceptable
Past Performance	Substantial Confidence	Substantial Confidence
Proposed Cost	\$170,804,015	\$224,911,610
Evaluated Cost	\$176,725,670	\$171,240,019 ⁵

AR, Tab 7, SSD, at 2-3; Tab 6, TET Report (Valbin), at 1-7.

Relevant to the protest here, the agency evaluators also identified strengths and weaknesses in the offerors' technical approaches in support of the ratings assigned. The TET found 16 strengths--four of which were deemed significant strengths--and no weaknesses in Leidos' technical approach, and five strengths and six weaknesses in Valbin's technical approach. AR, Tab 6, TET Report (Valbin), at 1-7; Tab 7, SSD, at 2.

On July 25, the agency source selection authority (SSA) received and reviewed the findings and recommendations of the agency's evaluators. The SSA, when comparing the relative merits of the Leidos and Valbin proposals, found the two offerors had essentially equal past performance.⁶ *Id.* at 19. The SSA concluded, however, that Leidos' numerous technical approach advantages outweighed Valbin's lower cost, and that Leidos' proposal represented the overall best value to the government. *Id.* at 18-22, 42.

After providing Valbin with notice of award on July 27, and a debriefing that concluded on August 8, this protest followed.

DISCUSSION

Valbin protests the agency's evaluation of its proposal under the technical approach factor. Specifically, the protester alleges that each of the weaknesses found in its technical approach was unreasonable or otherwise improper. Valbin also contends that had DIA conducted a proper evaluation of the offeror's technical approach, Valbin's proposal would have been found to represent the overall best value to the government. Protest at 9-14. As detailed below, while we do not specifically address each of the

⁵ The DIA found Valbin's cost proposal included a formula error that doubled-counted some of the offeror's labor costs and, insofar as these costs were not ones the agency realistically expected the offeror to incur as part of its proposed effort, removed the costs as part of its cost-realism evaluation of Valbin. AR, Tab 7, Source Selection Decision (SSD), at 12, 22.

⁶ The record also reflects that the SSA's head-to-head comparisons of the offerors' proposals were based on the underlying evaluation findings, and not merely the assigned ratings. AR, Tab 7, SSD, at 18-22.

protester's arguments, we have reviewed all the protester's assertions and find they do not provide any basis on which to sustain the protest.

In reviewing a protest challenging the agency's evaluation of proposals, our Office will not reevaluate proposals nor substitute our judgment for that of the agency regarding a proposal's relative merits. See Del-Jen Educ. & Training Group/Fluor Fed. Solutions LLC, B-406897.3, May 28, 2014, 2014 CPD ¶ 166 at 8; FPM Remediations, Inc., B-407933.2, Apr. 22, 2013, 2013 CPD ¶ 107 at 3. Rather, we will review the record to determine whether the agency's evaluation was reasonable; consistent with the stated evaluation criteria and applicable procurement statutes and regulations; and adequately documented. Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was improper. Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5.

The RFP informed offerors generally that proposals "shall be clear, concise, and include sufficient detail for evaluation and validity of stated claims." RFP amend 1. § L.4.1.2. The solicitation instructions also stated that technical approach proposals were limited to 25 pages, and that "[p]ages exceeding the page limitation set forth [above] will not be read or evaluated and will be removed from the proposal prior to evaluation by the Contracting Officer."⁷ Id., §§ L.4.2.1, L.4.3.1. Additionally, the RFP established that as part of the technical approach evaluation factor the agency would assess "the degree to which [an offeror's] proposed approach meets, exceeds or does not meet the [solicitation's] minimum performance or capability requirements" Id., § M.2.3.

Valbin's technical approach proposal contained a 25-page written narrative. AR, Tab 10, Valbin Proposal, Vol. 2, Technical Approach, at 1-25. However, Valbin's proposal also included five appendices--totaling an additional 25 pages--which the contracting officer found exceeded the RFP's page limitation.⁸ Id.; Contracting Officer's Statement (COS) at 2. The contracting officer instructed the TET not to consider these excess pages as part of its evaluation of Valbin's technical approach. COS at 2.

The TET identified five strengths in Valbin's technical approach. AR, Tab 6, TET Report (Valbin), at 2. However, the agency evaluators also found Valbin's technical approach contained six weaknesses, and each was based on a determination that the offeror's submission was incomplete, limited, or lacking detail (e.g., the offeror's approach for

⁷ The solicitation also specified what items (i.e., title page, glossary of acronyms, compliance matrix, summary of each of the proposed key personnel, and letters of intent) were not included within the 25-page limit.

⁸ These appendices were Valbin's: (1) transition plan; (2) executive steering committee; (3) employee retention and incentive reward and training program; (4) staffing matrix; and (5) pre-deployment process. AR Tab 10, Valbin Proposal, Vol. 2, Technical Approach, apps. B, C, E, F, G.

staffing and providing 24/7 support to operational DOMEX requirements lacks specific details, the offeror did not provide any detail regarding experience or expertise in recruiting linguists/translators in hard-to-fill language categories). Id. at 3-6. Based on relatively equal numbers of strengths and weaknesses, the TET concluded that Valbin's proposal indicated an adequate approach and understanding of the requirements and merited an overall "acceptable" rating. Id. at 1.

Valbin disputes the weaknesses assigned to its technical approach. The protester first alleges the solicitation instructed offerors to be "concise" in their submissions, and that Valbin did so. Protest at 8. Valbin also argues that the weaknesses assigned to its proposal were instances where the evaluators "wanted unrequested details," and thus, employed unstated evaluation criteria.⁹ Id. The protester, having failed in its attempt to exceed the RFP's page limitation, essentially argues that its first 25 pages are the standard by which technical proposals should be judged for detail sufficiency. Valbin alternatively contends that it did in fact provide the details which the agency evaluators found lacking. We find no merit to any of Valbin's arguments.

As a preliminary matter, we find that Valbin has not demonstrated that it was prejudiced by the alleged evaluation errors. Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. Engility Corp., B-413120.3 et al., Feb. 14, 2017, 2017 CPD ¶ 70 at 17; Lockheed Martin Integrated Sys., Inc., B-408134.3, B-408134.5, July 3, 2013, 2013 CPD ¶ 169 at 8; see Statistica, Inc. v. Christopher, 102 F.3d 1577 (Fed. Cir. 1996).

Valbin's protest is limited to disputing the six weaknesses in its technical approach; the protester does not maintain that DIA should have identified any additional technical strengths nor dispute any other part of its evaluation. However, the record indicates that when making his best-value tradeoff determination, the SSA found it was Leidos' strengths--and not Valbin's weaknesses--that were the technical discriminators which outweighed Valbin's lower cost. For example, the SSA concluded that it was Leidos' three strengths and one significant strength under the "translation and other language

⁹ Valbin also protested the technical evaluation of Leidos, alleging that the agency must have improperly given the awardee credit for providing "unrequested" details. Protest at 9, 14. As a preliminary matter, we have repeatedly found that an offeror's decision, in a best-value procurement, to exceed the minimum requirements does not amount to reliance upon an unstated evaluation criterion. See, e.g., PricewaterhouseCoopers Public Sector, LLP, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 8; First Financial Assocs., Inc., B-415713, B-415713.2, Feb. 16, 2018, 2018 CPD ¶ 76 at 5-6. Moreover, insofar as Valbin's challenge to the evaluation of Leidos was entirely speculative, we dismissed this protest ground as legally and factually insufficient prior to submission of the agency report. 4 C.F.R. § 21.5(f); Electronic Protest Docketing System Entry No. 13, GAO Notice to Parties, Aug. 20, 2018.

services” sub-paragraph that provided the technical discriminators between the offerors. AR, Tab 7, SSD, at 19. Likewise, with regard to the “startup transition plan and staffing plan,” the SSA found it was Leidos strengths and significant strengths that exceeded Valbin’s adequate approach. Id. at 20. The SSA then concluded that “Leidos’ technical proposal clearly provides significantly greater value over Valbin’s. It is clearly worth spending the additional funds (3.1%) to receive the significant added value associated with Leidos’ numerous significant strengths and strengths.” Id. at 22.

In sum, the record reflects that even without the six identified weaknesses, Valbin’s technical approach would have had five strengths in comparison to the 12 strengths and four significant strengths in Leidos’ technical approach. The record further reflects that it was Leidos’ numerous strengths and significant strengths which the SSA found outweighed Valbin’s lower cost and made Leidos’ proposal the best value to the government. Quite simply, even without the technical approach weaknesses which Valbin disputes, the record indicates that the SSA would still have found Leidos remained technically superior to Valbin overall, and the best value. See Engility Corp., supra, at 17-18.

In any event, we also find the agency’s evaluation of Valbin’s technical approach to be reasonable, consistent with the stated evaluation criteria, and adequately documented.¹⁰

For example, the RFP established that the agency would “evaluate the extent of the offeror’s experience and expertise in . . . [r]ecruiting linguists/translators in hard-to-fill language categories.” RFP amend. 1, § M.2.3, at 105. Valbin’s proposed approach to recruiting such linguists--consisting of one short paragraph--stated that it would utilize its pool of cleared candidates to respond to hard-to-fill language requirements. AR, Tab 10, Valbin Proposal, Vol. 2, Technical Approach, at 17. The TET found Valbin failed to provide any detail regarding its experience or expertise identifying or recruiting hard-to-fill linguists (“[t]here is no information on how the Offeror would identify and recruit against these requirements other than reaching out to its pool of cleared candidates”). AR, Tab 6, TET Report (Valbin), at 5; see also Tab 2, Declaration of TET Member, at 15-16.

We find the agency’s evaluation here to be reasonable. As an initial matter, Valbin asserts that the RFP “did not require a discussion of ‘experience or expertise’ in this

¹⁰ We also find no merit to Valbin’s assertion that the solicitation instructed offerors to only be “concise” (i.e., brief) in their proposal submissions. As set forth above, the RFP stated that proposals should be “clear, concise, and include sufficient detail for evaluation and validity of stated claims.” RFP amend. 1 § L.4.1.2. We review whether an agency’s evaluation was reasonable and consistent with the solicitation’s evaluation criteria when read as a whole and in a manner that gives effect to all of its provisions, rather than with selectively-chosen parts, as Valbin suggests. See Horizon Indus., Ltd., B-416222, B-416222.2, July 11, 2018, 2018 CPD ¶ 235 at 5.

matter. ‘Experience or expertise’ was an issue for past performance.” Protest at 12. The protester is, quite simply, mistaken. As set forth above, the solicitation expressly stated that the agency would “evaluate the extent of the offeror’s experience and expertise in . . . [r]ecruiting linguists/translators in hard-to-fill language categories.” RFP amend. 1, § M.2.3, at 105. Moreover, while Valbin asserts that other parts of its technical approach discussed recruiting, the agency reasonably found that no part of Valbin’s proposal discussed its experience or expertise in recruiting hard-to-fill language categories. It is an offeror’s responsibility to submit a well-written proposal, with adequately detailed information, which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. See, e.g., G4S Secure Solutions (USA), Inc., B-414755, Sept. 8, 2017, 2017 CPD ¶ 281 at 6; Engility Corp., supra, at 16. The mere fact that Valbin used the word “recruiting” in its proposal does not mean, as the protester contends, that it adequately addressed the stated evaluation criterion.

For example, the RFP stated the agency would evaluate the extent to which an offeror’s approach includes “[s]taffing and providing 24/7 support to operational DOMEX requirements.” RFP amend. 1, § M.2.3, at 104. Valbin proposed to staff the NMEC Response Center on a 24/7 basis with a minimum of three personnel, and recall other linguists as necessary, to support forward platforms and other exploitation elements worldwide.¹¹ AR, Tab 10, Valbin Proposal, Vol. 2, Technical Approach, at 13-14. The TET found that Valbin’s approach did not provide any specific details regarding how it would provide 24/7 operational support, including any details of roles, responsibilities, or coordination. AR, Tab 6, TET Report (Valbin), at 4; Tab 2, Declaration of TET Member, at 8-10. The TET also found that Valbin’s lack of detail introduced mission support risk to the agency’s customers. Id., Tab 6, TET Report (Valbin), at 4.

Valbin argues that its proposal went “beyond a general statement and vague high-level protocols,” and that nothing in the solicitation suggested that offerors were to provide specific details of staffing roles, responsibilities, and coordination. Protest at 11. We disagree.

Valbin’s proposal in large part merely “parroted back” the PWS requirements regarding support for operational DOMEX requirements. Moreover, the agency reasonably found that Valbin’s proposal provided little detail concerning the offeror’s approach for “providing support to [an operational requirements] center and the workflow management that must take place to ensure effective performance. AR, Tab 2, Declaration of TET Member, at 9. While a solicitation must inform offerors of the basis for proposal evaluation by identifying the evaluation factors and their relative

¹¹ The PWS, by comparison, stated that the NMEC Response Center “will typically be staffed with a minimum of three personnel, with the ability to contact and recall other personnel as needed and according to operational/mission needs,” in order to “assist/facilitate . . . forward platforms and other exploitation elements based on guidance from the government.” PWS § 3.1.8.

importance, a solicitation need not specifically identify each and every element an agency considers during an evaluation where such elements are intrinsic to, or reasonably subsumed within, the stated evaluation factors. Federal Acquisition Regulation § 15.304(d); DM Petroleum Operations Co., B-409044, B-409044.5, Jan. 15, 2014, 2014 CPD ¶ 52 at 8-9. The TET's finding that Valbin failed to provide any "roles, responsibilities, or coordination," was illustrative of the proposal's general lack of detail, and not an unstated evaluation criterion. AR, Tab 6, TET Report (Valbin), at 4.

For example, the RFP stated the agency would evaluate the offeror's approach to "[p]roviding linguists to be deployed worldwide in various countries and under various conditions . . . to include recruitment and retention, deployment processing, oversight and re-deployment" with similar programs. RFP amend. 1, § M.2.3, at 105. The TET found Valbin's proposed approach to be incomplete insofar as it did not sufficiently address retention, deployment processing, oversight, or the re-deployment of linguists.¹² AR, Tab 6, TET Report (Valbin), at 4; Tab 2, Declaration of TET Member, at 10-14. We find the agency's evaluation here to be entirely reasonable and consistent with the stated evaluation criterion. While Valbin may have discussed recruitment generally, the protester's proposal--at least the parts that properly could be considered within the stated page limitations--did not mention the retention of deployable linguists, deployment processes, or the oversight and re-deployment of linguists. Valbin essentially disagrees with the evaluators' judgments regarding the sufficiency of its proposal information; we find such disagreement, without more, is insufficient to establish that the evaluation was improper. See Beretta USA Corp., B-406376.2, B-406376.3, July 12, 2013, 2013 CPD ¶ 186 at 10.

In sum, we find the evaluated weaknesses in Valbin's technical approach to be both reasonable and without prejudice to the protester, and therefore find no basis to sustain Valbin's challenge to the agency's award decision.

The protest is denied.

Thomas H. Armstrong
General Counsel

¹² While Valbin's proposal stated that it had included a "[d]etailed Pre-Deployment process step-by-step in Appendix G," AR, Tab 10, Valbin Proposal, Vol 2, Technical Approach, at 14, the agency determined that this was one of the appendices outside of the RFP's page limit, and did not consider it as part of its evaluation. COS at 2.