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**Comptroller General
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**United States Government Accountability Office
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Decision

Matter of: Advanced Federal Services Corp.

File: B-298662

Date: November 15, 2006

Howell Roger Riggs, Jr., Esq., Patrick O. Miller, Esq., and David H. Stem, Jr., Esq., Dick, Riggs, Miller & Stem, LLP for the protester.

Ronald K. Henry, Esq., John L. Bowles, Esq., and Kevin S. Donohue, Esq., Kaye Scholer, LLP, for Eastek, Inc., an intervenor.

Jeffrey I. Kessler, Esq. and Janet K. Baker, Esq., Army Materiel Command, for the agency.

Jonathan L. Kang, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of offerors' proposals and source selection decision is denied where agency's determinations were reasonable and consistent with the solicitation.

DECISION

Advanced Federal Services Corp. (AFS) protests the award of a contract to Eastek, Inc. under request for proposals (RFP) No. W9128Z-06-R-0001, issued by the Department of the Army Communications-Electronics Life Cycle Management Command for business administrative support services (BASS). The protester contends that the agency unreasonably evaluated offerors' technical proposals and past performance and made an improper source selection decision.

We deny the protest.

BACKGROUND

The RFP sought proposals to provide BASS requirements for the Army Information Systems Engineering Command, Army Communications Security Logistics Activity, and the Communications-Electronics Life Cycle Management Command Acquisition Center Southwest. Offerors were required to propose BASS requirements for these facilities, including administrative support, shipping and receiving, logistics, system

administration and automation, contract operations, security administration and access control.¹ RFP at 2.

The RFP anticipated award of an indefinite-delivery, indefinite-quantity contract with fixed-price and cost-reimbursement task orders for a 1-year base performance period and four 1-year option periods. The competition was restricted to participants in the Small Business Administration 8(a) program for small, disadvantaged businesses. Offerors were advised that they would be evaluated on the basis of technical and personnel management, performance risk, and price. The RFP stated that for purposes of award, the technical and personnel management factor was more important than the performance risk factor, which was in turn more important than the price factor.

The agency received proposals from ten offerors, conducted discussions, and made two competitive range determinations, narrowing the number of proposals under consideration to four. As relevant to the protest, the agency's final evaluation of offerors' proposals was as follows:

	Technical and Personnel Management	Performance Risk	Price
AFS	Acceptable	Low	\$6,983,719
Eastek	Outstanding	Low	\$8,864,159

Agency Report (AR), Tab Q, Source Selection Decision (SSD), at 3.²

The agency's "outstanding" rating for Eastek's's proposal with regard to the technical and personnel management factor was based on six evaluated strengths, no weaknesses, and no deficiencies. Id. at 4. In contrast, AFS's proposal was evaluated as providing no strengths. Id. The agency selected Eastek for award, concluding that the strengths identified in Eastek's proposal, which received the highest technical scores of any offeror, offset the price savings offered by AFS. Id. at 6-7. Following notification of its nonselection and receipt of a post-award debriefing, AFS filed this protest.

¹ Amendment 10 to the RFP removed certain of the automated task requirements.

² Proposals were assigned adjectival ratings of "outstanding," "good," "acceptable," or "unacceptable" for the technical and personnel management evaluation factor, and ratings of "low," "moderate," "high" or "unknown" risk for the performance risk factor.

DISCUSSION

Technical Evaluation

AFS first protests that the agency failed to recognize various strengths in its proposal. More specifically, based on AFS's post-award debriefing which disclosed various evaluated strengths in Eastek's proposal, AFS complains that various aspects of its proposal should have been evaluated as reflecting strengths that were equal or superior to those proposed by Eastek.

In reviewing a procuring agency's evaluation of an offeror's technical proposal, our Office's role is limited to ensuring that the evaluation was reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. As with any evaluation review, our chief concern is whether the record supports the agency's conclusions. Innovative Logistics Techniques, Inc., B-275786.2, Apr. 2, 1997, 97-1 CPD ¶ 144 at 9. To the extent a protester disagrees with an agency's evaluation, such mere disagreement does not render an evaluation unreasonable; our Office will not question an agency's evaluation judgments absent evidence that its judgments were unreasonable or contrary to the stated evaluation criteria. Kay & Assocs., Inc., B-291269, Dec. 11, 2002, 2003 CPD ¶ 12 at 4.

Here, AFS asserts that various aspects of its proposal, including its approach to recruiting, its quality control plan, its "well defined safety program," and its "implementation of standard operating procedures," should have been evaluated as strengths by the agency. Protest, attach. A. In responding to AFS's protest, the agency provided a point-by-point comparison--consistent with, and supported by, the agency's contemporaneous evaluation record--of AFS and Eastek's proposals, identifying the bases for Eastek's evaluated strengths and the bases for the agency's conclusion that AFS's proposal met, but did not exceed the solicitation requirements.³ Contracting Officer's Statement at 11-16. Although AFS expresses its disagreement with the agency's judgments, it has not demonstrated that the agency's

³ Specifically, for example, the agency explained that Eastek's proposal provided for its chief operating officer to be directly involved in contract performance and that four experienced corporate officers would oversee the performance of tasks; AFS did not offer such high-level management involvement, and proposed that its quality control manager would also serve as deputy project manager. Contracting Officer's Statement at 13-14. Similarly, for example, the agency explained that Eastek's proposal provided specific, detailed information regarding its merit award program, discussing stated award values, types of awards, and frequency with which awards would be considered; AFS's proposal provided no similar information and indicated that performance awards would be considered only annually. Id.

evaluation was unreasonable. Based on our review of the record, we find no basis to question the reasonableness of the agency's evaluation of AFS's proposal.⁴

Past Performance Evaluation

AFS next protests that the agency unreasonably determined that Eastek's past performance demonstrated a stronger history of management and performance as compared to AFS. Although both offerors were rated as "low risk" under the performance risk evaluation factor, the SSD noted that Eastek's "performance record demonstrated a stronger history of management involvement and responsiveness." AR, Tab Q, SSD, at 6. AFS claims that its research shows that Eastek began operations in May 2000 and has only 80 employees; by contrast, AFS states that it began operations in 1995 and has 200 employees, and has performed more contracts. Protest at 7. On this basis, AFS argues, the agency could not have reasonably determined that Eastek's past performance was superior to that of AFS.

AFS's allegations regarding the agency's past performance evaluation fail to state a basis for protest. See 4 C.F.R. § 21.5(f). The RFP's evaluation criteria for the past performance factor do not include the factors on which AFS relies to assert that it should have received a higher past performance rating. Specifically, the RFP stated that offerors' past performance would be evaluated as follows:

The Government will conduct a performance risk assessment based on the quality, relevancy and recency of the Offeror's past performance, as well as that of its major subcontractors, as it relates to the probability of successful accomplishment of the required effort. When assessing performance risk, the Government will focus its inquiry on the past performance of the Offeror and its proposed major subcontractors as it relates to all solicitation requirements. These requirements include all

⁴ Following receipt of the agency report and the supporting evaluation record, AFS made various arguments challenging the agency's evaluation of Eastek's proposal; however, these arguments were submitted more than 10 days after AFS's receipt of the agency report. Accordingly, AFS has not timely challenged the agency's evaluation of Eastek's proposal. 4 C.F.R. § 21.2(a)(2) (2006); Orion Int'l Techs., Inc., B-293256, Feb. 18, 2004, 2004 CPD ¶ 118 at n.1. Although AFS asserts that its arguments challenging the evaluation of Eastek's proposal are sufficiently related to issues raised in AFS's initial protest to warrant consideration, the record does not support this assertion. AFS's protest, including Attachment A, refers to the evaluated strengths in Eastek's proposal (which were identified during AFS's post-award debriefing) and provides AFS's commentary regarding aspects of its own proposal which AFS asserts should have been evaluated as strengths. Nothing in AFS's initial protest challenges the agency's determination that Eastek's proposal merited the strengths identified.

aspects of cost, schedule, performance and supportability, including the Offeror's record of: 1) conforming to standards of good workmanship; 2) adherence to contract schedules. . . ; 3) forecasting contract costs; 4) ability to resolve technical and personnel management problems quickly and effectively; and 5) business-like concern for the interests of its customers; and 6) commitment to customer satisfaction.

RFP § M, ¶ C.2.a.

In short, the RFP contemplated evaluation of the quality of an offeror's past performance -- not the size or age of its organization. Accordingly, AFS's assertion that the agency's past performance evaluation was flawed for failing to assess these factors does not state a basis for protest.

Source Selection Decision

Finally, AFS protests that even if the agency's evaluation of the offerors' technical proposals was reasonable, the agency could not have rationally made award to Eastek in light of that firm's higher proposed price. AFS argues that the agency's evaluation record fails to explain why Eastek's higher technical score was worth the approximately \$2 million price difference between the offerors' proposals, and that such a difference could not have been justified.

Where, as here, the RFP allows for a price/technical tradeoff, the source selection authority (SSA) retains discretion to select a higher-priced, higher technically rated proposal if doing so is reasonably found to be in the government's best interest and is consistent with the solicitation's stated evaluation scheme. 4-D Neuroimaging, B-286155.2, B-286155.3, Oct. 10, 2001, 2001 CPD ¶ 183 at 10. Although agencies must document the rationale for a source selection decision, including any tradeoffs, there is no requirement to quantify the specific cost or price value difference when selecting a higher-priced, higher technically rated offeror. FAR § 15.308.

Here, as discussed above, the agency reasonably documented its determination that Eastek's proposal provided six strengths and no weaknesses, which resulted in its technical and personnel management factor rating of "outstanding," and that AFS's proposal provided no strengths, which resulted in its rating of "acceptable." The record is clear that the agency relied on Eastek's technical superiority, evidenced by its evaluated strengths, as warranting its higher price. In this regard, the SSA documented her basis for selecting Eastek's proposal for award as follows:

[T]he six strengths of [Eastek's] proposal significantly outweighed [AFS's] proposal which had no strengths or weaknesses

The combination of [Eastek's] OUTSTANDING rating in the Technical and Personnel Management factor, and LOW RISK rating in the

Performance Risk Assessment factor is more important than the Price. [AFS] proposes a price that is approximately \$2 million lower than [Eastek]. . . . I have determined that the technical superiority demonstrated by [Eastek] . . . warrants the higher proposed price.

AR, Tab Q, SSD, at 5-7.

On this record, we find no basis to question the reasonableness of the agency's selection of Eastek's proposal for award.⁵

The protest is denied.

Gary L. Kepplinger
General Counsel

⁵ In its protest submissions, AFS has raised various other issues, including, for example, a speculative allegation that Eastek could not have written a proposal containing all of the six strengths identified by the agency within the 10-page proposal limitation. We have considered all of AFS's allegations and find no basis for sustaining its protest.