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Decision

Matter of: Ernst & Young LLP

File: B-411728; B-411728.2

Date: October 14, 2015

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DIGEST

Protest challenging agency's technical evaluation and source selection decision is denied where the evaluation and source selection decision were reasonable and in accordance with the solicitation's evaluation criteria.

DECISION

Ernst & Young LLP (EY), of McLean, Virginia, protests the issuance of a task order to PricewaterhouseCoopers Public Section LLP (PWC), of McLean, Virginia, by the Federal Bureau of Investigation (FBI), under request for quotations (RFQ) No. RFQ-OSCU-15-CVF, issued under the General Services Administration (GSA) Federal Supply Schedule (FSS) Financial and Business Solutions (FABS) program, for accounting and auditing services. EY asserts that the FBI conducted an unreasonable and unequal technical evaluation, and made a flawed award decision.

We deny the protest.

BACKGROUND

The FBI issued the RFQ on February 20, 2015, contemplating the issuance of a task order for various accounting and auditing services to support the financial management activities of the FBI Finance Division/Facilities and Logistics Services

Division. The RFQ provided for selection of the vendor on a best-value basis considering a technical evaluation factor and price.¹ Agency Report (AR), Tab 5, Final RFQ, at 56-57. The technical factor was composed of three subfactors, listed in descending order of importance: management and staffing plan, corporate experience, and key personnel. Id. Each subfactor was to be rated using a color/adjectival scale of blue/outstanding, purple/good, green/acceptable, yellow/marginal, and red/unacceptable. Id. at 58. For the key personnel subfactor, the resumes of key personnel were to be rated on an individual basis, and the overall subfactor rating was to be a combination of the individual resume ratings. Id. The three subfactor ratings were then to be combined into a single technical factor rating, using the same rating scale. Id. at 56. The RFQ advised that, in the overall best-value tradeoff, the technical factor was “significantly more important than price.” Id. at 56-57.

The FBI received quotations from EY and PWC in response to the RFQ. After evaluation, the quotations were rated as follows:

	EY	PWC
Technical Rating	Purple/Good	Blue/Outstanding
Management and Staffing	Purple/Good	Blue/Outstanding
Corporate Experience	Purple/Good	Blue/Outstanding
Key Personnel	Purple/Good	Blue/Outstanding
Price	\$24,984,000	\$34,744,588.80

AR, Tab 18, Source Selection Decision (SSD), at 10-11. Both vendors’ prices were substantially below the agency’s independent government cost estimate, and all proposed rates were at or below their approved GSA FABS schedule rates. Id. at 11. In the SSD tradeoff analysis, the source selection authority concluded that PWC represented the best value to the government on the basis of its superiority under all three technical subfactors. More specifically, the source selection authority (SSA) concluded that:

[T]he strengths of the [PWC] quote, especially the offering of a more experienced contractor staff as evidenced by Key Personnel resumes, the depth and relevance of its Corporate Experience relative to the FBI’s financial portfolio, and its excellent Management and Staffing plan, represents the best

¹ The evaluation also provided for a pass/fail evaluation of required submissions, including labor category crosswalks, security forms, and an organizational conflicts of interest plan.

value to the government and the benefits to the FBI outweighs the additional \$10 Million of the quote.

Id. at 18-19.

The SSA also explicitly recognized that \$10 million represents “a huge price difference between the quotes,” but reasoned that “[w]hile this was a difficult decision to award to a company that is \$10 Million higher in total price, the Government stated in the solicitation that the Technical Quote factor is significantly more important than the Price factor.” Id. at 19. The SSA also considered that, due to the significant importance of the audit requirement to FBI executive management and external oversight, payment of the price premium was warranted on the basis that “[PWC] greatly exceeded all minimum requirements of the solicitation and is more likely to enable the FBI to continue being successful in achieving its audit goals than EY who only satisfied or exceeded the minimum requirements.” Id.

The FBI notified EY of the selection decision on June 24. This protest followed.

DISCUSSION

EY primarily argues that the FBI unreasonably or unequally evaluated the quotations under each of the three technical subfactors, and made a flawed selection decision. Concerning the technical subfactors, EY alleges that its quotation warranted higher--blue/outstanding--adjectival ratings, and that the evaluation was unequal because the FBI applied more lenient evaluation standards to PWC’s quotation. We find no merit in these allegations.²

The evaluation of quotations is a matter within the discretion of the procuring agency. Analytical Innovation Solutions, LLC, B-408727, Nov. 6, 2013, 2013 CPD ¶ 263 at 3. In reviewing protests challenging an agency’s evaluation of quotations,

² EY has presented a variety of issues in its protest, and in a subsequently-filed supplemental protest. We address EY’s primary allegations in this decision. To the extent that arguments raised by EY are not discussed in the decision, we have reviewed the allegations and concluded that they are also without merit. For example, EY alleges that the agency failed to conduct a price reasonableness analysis. However, under Federal Acquisition Regulation § 8.404, agencies are specifically advised that they are not required to independently evaluate the reasonableness of prices because, in the context of an FSS procurement, the General Services Administration (GSA), prior to awarding the firm’s underlying FSS contract, has already determined that the firms’ fixed unit or hourly rate prices are fair and reasonable. See Detica, B-400523, B-400523.2, Dec. 2, 2008, 2008 CPD ¶ 217 at 7-8.

our Office does not independently evaluate quotations; rather, we review the agency's evaluation to ensure that it is consistent with the terms of the solicitation and applicable statutes and regulations. Nat'l Forensic Sci. Tech. Ctr., Inc., B-409457.2, B-409457.3, July 29, 2014, 2014 CPD ¶ 224 at 4. A protester's disagreement with the agency's judgment, by itself, is not sufficient to establish that an agency acted unreasonably. See Athena Sciences Corporation, B-409486, B-409486.2, May 14, 2014, 2014 CPD ¶ 154 at 10.

Management and Staffing Subfactor

Regarding this subfactor, EY asserts that the agency unreasonably assessed a single minor weakness against its proposal concerning EY's "reach-back capability," and that its quotation therefore warranted a blue/outstanding rating, rather than a purple/good rating. EY argues that the assessed weakness was inconsistent with the FBI's evaluation, which also recognized EY's reach-back capability as a strength under this subfactor.

We have reviewed the record and find no error in the FBI's evaluation. The RFQ provided that the vendors' quotations were to address "reach back capabilities and capacities that allow on-site staff to access corporate-resident subject matter expertise, knowledge, advice, and legal counsel, as situations require," and that quotations would be evaluated on that criteria. AR, Tab 5, Final RFP, at 51, 57 (internal quotations omitted). With regard to EY's quotation, the evaluation recognized a strength for EY's response on corporate reach-back, which included "over 190,000 professionals including [DELETED] professionals in its [DELETED] practice." AR, Tab 9, EY Management and Staffing Evaluation, at 2 (internal quotations omitted).

However, the FBI also recognized a minor, correctable weakness, on the basis that EY's quotation, in the general discussion of management methodology, described an advisory panel of financial management leaders supporting the program manager and available to the agency--which was not described in the quotation's specific, separate discussion of reach-back capability. The agency noted that the expertise on the advisory panel was more likely to be needed than the generic capability discussed in the reach-back section, but that it was ambiguous whether the advisory panel was included within the quotation's reach-back response. Where EY's proposal described valuable resources in its management approach, but did not include those resources in its specific discussion of reach-back capabilities in response to the RFQ criteria, we see nothing unreasonable in the agency's assessment of one admittedly "minor" and "readily correctable" weakness under the subfactor.

Further, we see nothing in the evaluation to support EY's assertion that removal of the sole minor weakness under the subfactor would have elevated its subfactor rating from purple/good to blue/outstanding. Although the evaluation notes that

elimination of the weakness would have improved the quotation, the agency also concluded that the quotation, even with six strengths under the subfactor, only “satisfied or exceeded all minimum requirements of the RFQ” in this area, and had not “greatly exceeded” the requirements, as was required for a blue/outstanding rating. AR, Tab 9, EY Management and Staffing Evaluation, at 3. The evaluation also specifically noted areas in which EY could have improved its quotation to greatly exceed the requirements, which did not relate to reach-back capabilities. Rather, the evaluation suggests that the quotation could have “greatly exceeded” the requirements by providing a full roster of non-key personnel, and by better integrating its management methodology into the project manager services set forth in the statement of work. In sum, we see no likelihood that removal of the minor, correctable weakness assessed against EY’s management and staffing quotation would have elevated EY’s subfactor rating to blue/outstanding.

Corporate Experience Subfactor

EY next alleges that a weakness assessed against its quotation under the corporate experience subfactor was unreasonable, and that the agency engaged in disparate treatment. As addressed below, we see no error in the agency’s evaluation.

Concerning the corporate experience subfactor, the RFQ’s instructions provided that vendors were to:

provide detailed organizational experience for previous work in performing accounting support services, in general, and preparation of annual federal agency financial statements and federal agency financial audits, in particular, that the organization has performed within the last five (5) years with clients possessing a financial, organizational, and geographic structure similar to that of the FBI. The magnitude and complexity of the FBI’s financial portfolio that is subject to audit--current year appropriations totaling over \$8 billion, prior-year balances, no-year appropriations, multi-year appropriations, reimbursable funds, and user fee funds--as well as the number and value of physical assets is immense and challenging The Quoter shall address how the previous experience will translate to successful performance of the requirements of this Statement of Work/Task Order.

AR, Tab 5, Final RFP, at 52. The RFQ’s corporate experience evaluation criteria further advised that “[t]he Corporate Experience submitted pursuant to [the above instructions] will be evaluated on the degree of relevance to the requirements of the Statement of Work/Task Order on the basis of similarity in size, scope, complexity, technical difficulty, contract type, and period of performance.” Id. at 57.

Under this subfactor, EY objects to a weakness assessed against its quotation on the basis that:

[EY's] narratives did not specifically provide information that services provided included work with prior-year balances, no-year appropriations, multi-year appropriations, reimbursable funds, user fee funds, and the number and value of physical assets--elements that comprise the FBI financial portfolio. Information on the characteristics of the financial portfolio is considered relevant as it provides insight into EY 's experience with the types of accounts that would be encountered at the FBI. Each of these types of accounts can present unusual situations and circumstances.

AR, Tab 10, EY Corporate Experience Evaluation, at 2-3. EY argues that the assessment of this weakness was unreasonable and unequal. More specifically, EY alleges that the agency erred in assigning PWC a strength for experience in these areas, where PWC's proposal also failed to provide specific information on work with prior-year balances, no-year appropriations, multi-year appropriations, reimbursable funds, user fee funds, and physical assets. EY also asserts that PWC should have been assessed a weakness where the FBI acknowledged that PWC had not provided information on contract size or type for its corporate experience.

Our review of the record demonstrates that the weakness assigned to EY's quotation and the strength assigned to PWC's proposal were reasonable, and that the evaluation was not unequal. As an initial matter, EY does not dispute that its quotation failed to describe experience with prior-year balances, no-year appropriations, multi-year appropriations, reimbursable funds, user fee funds, and physical assets--aspects of the FBI's financial portfolio specifically emphasized in the RFQ's instructions for the preparation of the corporate experience proposal.

Concerning PWC, the record reflects that PWC's quotation did, in fact, provide evidence of such experience in two ways. First, PWC's quotation included a table listing its prior contracts with similar clients which identified, among other aspects of its experience, those contracts in which PWC's work included "Various Types of Appropriations," "Reimbursable Funds," "User Fee Funds," and "Significant Physical Assets." AR, Tab 7, PWC Technical Quote, at 18-19. Second, PWC's narrative description of its experience, addressing how its experience would translate to successful performance on this contract, discussed prior work which necessarily included experience in these areas. For example, concerning reimbursable funds, PWC's narratives discuss prior experience with the FBI involving the "Interagency Payment and Collection Process," which concerns reimbursable funds, and with the FBI's "Accounts Receivable Unit," which manages the process by which agencies agree to and request reimbursements. Id. at 20. In light of this evidence of PWC's

experience, set forth in its corporate experience proposal, we see nothing unreasonable or unequal in the agency's assessment of a strength in this area.

With respect to contract size and type, EY argues that the agency erred in not assigning PWC at least a weakness, where it recognized that PWC had not provided information on contract size and type in its discussion of corporate experience. In this regard, the evaluation record shows that the FBI assigned a strength to PWC's overall corporate experience on the basis that PWC demonstrated experience with similar accounting services provided to seven other federal and state clients, as well as the FBI. The evaluation recorded that individually and as a group, these clients possessed "one or more of the financial, organizational, and geographic structure characteristics of the FBI," and "one or more of the characteristics of the FBI's financial portfolio," including "current year appropriations totaling over \$8 billion, prior-year balances, no-year appropriations, multi-year appropriations, reimbursable funds, and user fee funds." AR, Tab 14, PWC Corporate Experience Evaluation, at 2. The FBI also concluded that PWC "gave strong evidence, through the examples of the type and complexity of work performed and the results achieved, that [PWC] possessed corporate experience of the scope, complexity, and technical difficulty being sought under [the RFQ]," and provided periods of performance for each client. Id. However, within its discussion of this strength, the FBI noted that "[w]hile information was not provided on the size of the contract (dollars and/or staffing) or contract type, the lack of this information was not seen as a weakness in assessing [PWC's] overall corporate experience." Id.

We conclude that the agency's evaluation was within its discretion and not unreasonable. The agency evaluated PWC's prior experience for relevance to the RFQ requirements, considering similarity in size, scope, complexity, technical difficulty, contract type, and period of performance, as required by the RFQ. The evaluation recorded that, overall, PWC's quotation demonstrated strong evidence of experience similar in scope, complexity, and technical difficulty to the RFQ, and noted that PWC had also provided the period of performance information for each client. The agency also noted that PWC had not provided information concerning contract size or type.

Our Office examines an agency's evaluation of experience to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and applicable statutes and regulations. RORE, Inc., B-410759, Feb. 6, 2015, 2015 CPD 94, at 5. An agency has broad discretion when evaluating the relevance of an offerors' experience. Id. In this case, the evaluation record reflects consideration of each element of relevance set forth in the evaluation criteria, and demonstrates that the agency was aware that PWC had not provided information on contract size or type. Nonetheless, the FBI concluded that overall, in consideration of the elements of relevance set forth in the evaluation criteria, PWC's corporate experience

warranted a strength, and that the lack of contract size and type information was not a weakness in assessing that experience.

In this regard, we note that PWC's corporate experience narratives described accounting and audit support services for multiple major government agencies including the FBI, and annual financial statement audit services for the National Aeronautics and Space Administration, over multi-year periods of performance. Thus, although contract size and type information was not provided, the FBI was aware of contract details concerning PWC's prior work for the FBI, and had a reasonable basis on which to determine that PWC's overall corporate experience was similar, and relevant to, the RFQ requirements. Supplemental Contracting Officer's Statement at 4. Further, as noted by the contracting officer, the RFQ's instructions for quotations emphasized the magnitude and complexity of the FBI's financial portfolio, including prior-year balances, no-year appropriations, multi-year appropriations, reimbursable funds, user fee funds, and physical assets, but did not specifically require submission of detailed contract reference data such as contract size and type. Id. at 4-5. In consideration of these factors, we find that the evaluation, made in consideration of the elements of relevance described in the evaluation criteria, was within the discretion granted to the agency in determining the relevance of a vendor's experience.

Key Personnel Subfactor

Under this subfactor, EY alleges that the FBI unequally evaluated the quotations by providing a PWC candidate with credit for meeting desired qualifications not demonstrated by the individual's resume, which resulted in an improper purple/good rating for that candidate, while declining to credit similarly situated EY personnel for that same experience. Specifically, EY alleges that the resume for PWC's Senior Accountant/Senior Auditor candidate demonstrated only one of twelve desired qualifications, but that the FBI credited the candidate with meeting several additional desired qualifications despite not meeting the RFQ criteria for years of experience. In contrast, EY asserts that the FBI did not extend similar credit to the resume for its candidate for Intermediate Accountant/Intermediate Auditor, which also demonstrated one desired qualification, but "fell just short" of the years of experience required for further desired qualifications. On our review of the record, we see no error in the agency's evaluation.

As relevant to EY's allegations, under the key personnel subfactor, the RFQ required the vendors to submit resumes for candidates to fill four key personnel positions: Project Manager, Senior Accountant/Senior Auditor, Intermediate Accountant/Intermediate Auditor, and Junior Accountant/Junior Auditor. The RFQ evaluation criteria provided that the "Key Personnel resumes will be evaluated to ensure the personnel proposed at least meet the minimum qualifications." AR, Tab 5, Final RFQ, at 57. In this regard, the RFQ specified minimum experience and educational qualifications for each key personnel position, as well as additional

“desired” qualifications for each position. As noted above, the key personnel resumes were individually rated on the RFQ’s color/adjectival scale.

As an initial matter, our review of the key personnel evaluation demonstrates that PWC’s Senior Accountant/Senior Auditor candidate did not, in fact, receive credit for desired qualifications not demonstrated by his resume. Rather, the evaluation demonstrates that the agency recognized, and assigned a strength to the resume on the basis that it provided “evidence of satisfying one of 12 desired qualifications by possessing a Master’s degree in Accounting.” AR, Tab 15, PWC Key Personnel Evaluation, at 3. Separately, in the “overall” narrative discussion of the candidate, the agency elaborated that “though he only satisfies one of the 12 desired qualifications due to not meeting the years of experience or expert knowledge required, his resume shows a significant amount of experience in the remaining 9 out of the 11 desired qualifications.” Id. The agency reasoned in its narrative that due to this broad experience “a higher adjectival rating is warranted,” and rated the resume as purple/good. Id. On this record we cannot conclude that the agency improperly credited the resume with meeting additional desired qualifications, or relaxed the qualifications standards for this candidate. Rather, the record shows that the agency properly evaluated the candidate as meeting one desired qualification, but concluded that the candidate’s broad base of experience in an additional nine of eleven desired qualification areas warranted additional consideration in the evaluation.

Concerning the alleged unequal treatment of EY’s own candidate, we cannot conclude that EY’s candidate was similarly situated. Specifically, even when considered in a light most favorable to EY, its candidate for Intermediate Accountant/Intermediate Auditor possessed one desired qualification, and demonstrated experience in three further desired qualification areas. This experience does not compare to the breadth demonstrated by PWC’s candidate, whose resume showed experience in nine additional desired qualification areas. Moreover, the agency asserts, and our review of the record confirms, that the information provided by the vendors in their quotations influenced the outcome of the evaluation here. Specifically, each of PWC’s key personnel resumes included a special resume section providing the individual’s years of experience in each of the desired qualifications areas in which the individual had experience. In contrast, EY’s key personnel resumes provided only overall years of experience in accounting/auditing, and did not delineate specific years of experience in each desired qualification area, which prevented the evaluators from plainly determining the candidates’ years of experience in various desired qualification areas. On this record we have no basis to question the agency’s evaluation.

Best Value Tradeoff Decision

Finally, EY alleges that the agency’s best value decision was improper because the SSA improperly downgraded EY’s technical ratings in the tradeoff discussion and

because the decision to pay the price premium associated with PWC's proposal could not be reasonable. Concerning the alleged downgrading of its proposal, EY objects to the SSA's observation in the SSD that:

[PWC] greatly exceeded all minimum requirements of the solicitation and is more likely to enable the FBI to continue being successful in achieving its audit goals than EY who only satisfied or exceeded the minimum requirements.

AR, Tab 18, SSD, at 19. EY argues that, because its quotation was rated purple/good for the technical factor and each subfactor, its quotation exceeded the minimum requirements, and that the SSA's observation that it "only satisfied or exceeded the minimum requirements" was unsupported and incorrect. We disagree. As discussed at length above, the evaluation individually rated the key personnel resumes under the key personnel evaluation subfactor. Under this subfactor, two of EY's four key personnel resumes were rated green/acceptable for meeting, but not exceeding, the minimum requirements of the RFQ. Accordingly, we see no basis to object to the SSA's observation.

Concerning the price premium associated with the selection of PWC, where, as here, a solicitation provides that a task order will be issued to the vendor whose quotation is determined to be the best value, considering price and other factors, the agency retains the discretion to select a vendor with a technically superior evaluation, despite a higher price, so long as the tradeoff is properly justified and otherwise consistent with the stated evaluation and source selection scheme. S4, Inc., B-310794, Feb. 12, 2008, 2008 CPD ¶ 45 at 3. A protester's argument that the cost premium is simply too large is not sufficient to establish that the tradeoff was unreasonable. See General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44 at 11 (tradeoff reasonable where agency determined that technical superiority of awardee's proposal was sufficient to offset 125 percent higher cost).

In this case, the SSA recognized the "huge price difference between the quotes," but noted that the technical factor was "significantly more important than the Price factor" under the RFQ. Further, the SSA specifically explained that based on the significant importance of the requirement to both the FBI's executive management and outside oversight authorities, the payment of the price premium was warranted, where PWC's superior quotation greatly exceeded the requirements, in comparison to EY's quotation which only met or exceeded the requirements. The SSA's well-supported decision in this case provides no basis for our Office to question the award decision. Selection officials have considerable discretion in making

price/technical tradeoff decisions. American Material Handling, Inc., B-297536, Jan. 30, 2006, 2006 CPD ¶ 28 at 4.

The protest is denied.

Susan A. Poling
General Counsel