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Decision

Matter of: Astro Systems, Inc.

File: B-411881.2

Date: November 25, 2015

Alexander J. Brittin, Esq., Brittin Law Group, PLLC, Jonathan D. Shaffer, Esq., and Mary Pat Buckenmeyer, Esq., Smith Pachter McWhorter PLC, for the protester. William A. Shook, Esq., for Cambridge International Systems, Inc., the intervenor. Mai Oanh P. Ho, Esq., Space and Naval Warfare Systems Command, for the agency. Lois Hanshaw, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

An agency did not rely on unstated evaluation criteria in evaluating a protester's proposal where the agency's evaluation was logically related to, and encompassed by the solicitation's requirements.

DECISION

ASTRO Systems, Inc. (ASTRO), of Bethesda, Maryland, a small business, protests the award of contracts to five awardees under request for proposals (RFP) No. N00039-13-R-0055 issued by the Department of the Navy, Space and Naval Warfare Systems Command (SPAWAR) for various command, control, communications, computers and intelligence ("C4I")-related services.¹ The protester challenges the agency's evaluation of ASTRO's technical approach, past performance, and oral presentation. ASTRO also contends that the agency's best-value determination was flawed.

We deny the protest.

¹ The awardees are C4Planning, LLC; Cambridge International Systems, Inc.; Envistacom LLC; Forward Slope, Inc.; and Solute Consulting. See Legal Memorandum at 16.

BACKGROUND

SPAWAR develops, delivers and sustains communications and information capabilities to keep warfighters connected throughout the world.² The RFP and the Statement of Work (SOW) indicated that SPAWAR sought to procure C4I systems acquisition, integration, and engineering services for use in ship, submarine, aircraft, shore, mobile, and unmanned platforms on behalf of the International C4I Integration Program Office (PMW 740).³ RFP at 81; Agency Report (AR), Tab 22, SOW, at 1. The SOW explained that PMW 740 is the program office within the Navy's Program Executive Office for C4I (PEO C4I) responsible for acquiring, fielding, and sustaining tailored, interoperable C4I capabilities in support of authorized and approved U.S. Department of Defense (DoD) security cooperation programs.⁴ AR, Tab 22, SOW, at 1. This effort would provide U.S.-allied and coalition nations with tailored, interoperable C4I systems and support in accordance with authorized and approved DoD security cooperation programs, e.g., Foreign Military Sales (FMS). Id.; RFP at 81.

On March 14, 2014, the RFP was issued as a small business set-aside. The solicitation anticipated the award of multiple indefinite-delivery/indefinite-quantity

² <http://www.public.navy.mil/spawar/Pages/default.aspx> (last visited Nov. 24, 2015).

³ The PMW 740 fact sheet on SPAWAR's website indicates that C4I is comprised of various capabilities and products for each component part of C4I. For example, command and control consists of areas such as air defense systems integrator and surveillance systems, while communications consists of areas such as navigation, GPS, and satellite and tactical communications. Additionally, computers and information networks addresses areas such as cryptographic equipment and shipboard digital network systems, while intelligence support focuses on areas such as maritime domain awareness and intelligence, surveillance and reconnaissance. <http://www.public.navy.mil/spawar/PEOC4I/Pages/default.aspx> (follow "Products & Program" tab; then follow "PMW 740: International C4I Integration hyperlink" (last visited Nov. 24, 2015).

⁴ On SPAWAR's website, PMW 740 is described as, "the international C4I integration program office [that] delivers and integrates tailored, C4I releasable systems to foreign partners through foreign military sales, foreign military financing and other DoD funded international programs to enhance interoperability between the U.S. and its international partners. <http://www.public.navy.mil/spawar/PEOC4I/Pages/AboutUs.aspx> (last visited Nov. 24, 2015).

(ID/IQ) contracts with hybrid cost-plus-fixed-fee and fixed-price contract line item numbers (CLINs) for a three-year base period with the option for an additional two-year ordering period. RFP at 13, 81. The solicitation provided for award on a best-value basis. Id. at 93.

The RFP required offerors to prepare three proposal volumes, including, as relevant here, the technical volume which was to address three factors: (1) technical approach; (2) past performance; and (3) oral presentations.⁵ Id. at 81-82. The RFP indicated that technical factors were significantly more important than cost. Additionally, the technical approach was significantly more important than past performance and the oral presentation, which were of equal importance. Id. Offerors were advised that statements in the technical volume that paraphrased or repeated the SOW requirements or that provided insufficient detail to complete the technical evaluation would be inadequate and a basis for rejection. Id. at 83.

As relevant here, Section 4.0 of the SOW included tasks related to areas such as program management; program reviews; design, engineering and integration; shipping, installation and post-installation testing; and sustainment and support. AR, Tab 22, SOW, at 3-10.

For the evaluation of the technical approach factor, offerors were required to describe their technical approach, capabilities, plans, and process, including any international applications, to satisfy the requirements in Section 4.0 of the SOW. Id. at 83. Technical approach would be evaluated on the extent to which an offeror provided an adequate approach for international projects that demonstrated an ability to meet the SOW requirements. Id. at 94.

For past performance, offerors were required to provide up to three references for government contracts performed within the last five years for which the work was relevant to the efforts required in Section 4.0 of the SOW and solicitation. Id. at 83. Offerors were advised that they had the burden of providing thorough and complete information and that the government would not search for information to cure problems presented in the information provided by the offeror. Id. The past performance evaluation would assess the offeror's probability of meeting the solicitation requirements by examining the relevance and quality of performance of the offeror's recent efforts. Id. at 94.

As relevant here, the SOW required that a contractor's foreign travel comply with various related requirements, such as the DoD foreign clearance guide, geographic combatant commanders' directives and instructions, and SPAWAR foreign travel requirements. AR, Tab 22, SOW, at 12. The SOW also stated that the contractor

⁵ The other two volumes related to cost and contractual information. RFP at 81.

was to ensure that its workers possessed passports and visas, as required. Id. at 12. The contractor was also required to complete foreign travel training such as anti-terrorism/force protection and human rights training.⁶ Id. The RFP also included DFARS clause 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the U.S., advising that performance in support of U.S. armed forces deployed outside the United States might require work in dangerous or austere conditions. RFP at 57-58.

With respect to the oral presentation, an offeror would be evaluated for its demonstrated knowledge of the requirements of the prospective contract, based on its development and delivery of a presentation in response to a sample scenario, and its response to questions related to how the offeror would manage difficulties and risk that might arise in performance. Id. at 83. After receipt of the sample scenario, an offeror would have two hours to prepare a response and one hour to make its oral presentation. Id. at 84. The government advised that the oral presentations would be recorded and might be referred to as part of the source selection evaluation board's (SSEB) evaluation. Id. at 85. The RFP also advised that the oral presentation would not constitute a part of any contract resulting from the RFP. Id. at 84. Instead, the agency would evaluate an offeror based on the extent to which it adequately understood the requirements of the scenario related to the RFP's SOW and the adequacy of the offeror's presented approach in response to the questions regarding the difficulties and risks of the scenario. Id. at 95.

As relevant here, the scenario indicated that upon arrival in-country to install a shipboard command and control system, the contractor discovers that the purchasing nation has not performed any preparatory work for the project and that the equipment to be installed is not only unprotected, but also shows signs of damage. AR, Tab 27, Oral Presentation Scenario, at 1. Additionally, the scenario indicated that the relationship between the contractor and the host nation representatives might be strained and potentially hostile; external communication was intermittent at best; and site visits from stakeholders would not occur until three weeks after the contractor's arrival. Id. Based on the above scenario, offerors were required to respond to five questions regarding issues, such as the top risks the scenario presented; and the company's practices and procedures for responding to personnel emergencies or deteriorating political and/or civil security situations when deployed. Id.

The RFP indicated that the technical approach and oral presentation would be evaluated with a combined technical/risk rating, while past performance would be

⁶ The RFP included Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States. RFP at 64.

evaluated based on relevancy and a performance confidence assessment.⁷ RFP at 95-96.

The agency received 22 offers by the April 29 closing date. The SSEB and cost evaluation team (CET) evaluated proposals before presenting their findings to the source selection authority (SSA). The final ratings were as follows:

	Technical Approach	Past Performance	Oral Presentations	Evaluated Cost
C4Planning, LLC	Outstanding	Very Relevant; Substantial Confidence	Acceptable	\$72,797,956
Cambridge International Systems, Inc.	Outstanding	Very Relevant; Substantial Confidence	Marginal	\$79,180,554
Envistacom LLC	Outstanding	Very Relevant; Substantial Confidence	Good	\$79,487,316
Forward Slope, Inc.	Outstanding	Very Relevant; Substantial Confidence	Outstanding	\$84,578,914
Solute Consulting	Good	Very Relevant; Substantial Confidence	Outstanding	\$81,656,010
ASTRO	Acceptable	Somewhat Relevant; Limited Confidence	Marginal	\$75,501,991

AR, Tab 34, Source Selection Decision (SSD), at 26-28.

For the technical approach, ASTRO's proposal received a technical/risk rating of acceptable. AR, Tab 30, SSEB Report, at 22. As relevant here, ASTRO's proposal explained how it would address program reviews, and efforts on design, engineering, and integration, but made very little mention of performing these tasks

⁷ The technical/risk ratings--from highest to lowest--were outstanding; good; acceptable; marginal; and unacceptable. RFP at 96. Past performance relevancy ratings--from highest to lowest--were very relevant; relevant; somewhat relevant; and not relevant. Id. The past performance confidence assessment ratings--from highest to lowest--were substantial confidence; satisfactory confidence; limited confidence; no confidence; and unknown confidence (neutral). Id.

in an international context. AR, Tab 31, ASTRO Proposal, at 9-16. The SSEB report indicates that ASTRO received a weakness for each of these two tasks, based on the protester's lack of detail regarding how its approach "might be impacted by the security cooperation partner nation's evolving requirements, technology transfer considerations, or other variables and uncertainties commonly encountered in security cooperation engagements." AR, Tab 30, SSEB Report, at 22-23. The SSEB concluded that this lack of detail suggested that ASTRO's understanding of programmatic requirements and processes in this type of engagement was less than complete, and could potentially represent cost, schedule, and performance risk. Id.

For past performance, ASTRO received a "somewhat relevant" rating with limited confidence. Id. at 24. ASTRO's proposal referenced three contracts, two of which are relevant here.⁸ The two contracts were for work performed for Space and Naval Warfare Systems Center Pacific's Electronic Security and Surveillance Systems Division (Pacific contract) and the Space and Naval Warfare Systems Center Atlantic (Atlantic contract). The Pacific contract related to work for an ongoing ID/IQ contract, with an initial estimated value of \$19 million, to provide systems engineering and total life cycle logistics, technical, and field support to DoD and non-DoD U.S. agencies and foreign military governments supporting operational electronic security/surveillance and sensor systems, equipment for mobile teams, facilities, and ships worldwide. AR, Tab 31, ASTRO proposal, at 24. Work related to this contract was performed at 12 sites in CONUS/OCONUS (continental United States/outside the continental United States). Id. at 23-24. The Atlantic contract was a \$468 million ID/IQ contract to define, procure, fabricate, assemble, integrate tests, inspect, and deliver integrated systems or other equipment for installation at shore sites, or on maritime tactical platforms and vehicles. Id. at 26-28. ASTRO's proposal indicates that it performed work on various C4I systems fielded on Navy ships, submarines, and shore sites, both CONUS and OCONUS. Id. at 27.

The SSEB determined that although both contracts involved some of the scope, complexity, and magnitude of this requirement, these contracts were not representative of the work to be performed here because neither involved security cooperation partners, nor was either performed as a security cooperation engagement.⁹ AR, Tab 30, SSEB Report, at 25. The agency distinguished the

⁸ The third contract will not be discussed because the agency could not reach the points of contact for that contract and assigned it a rating of neutral confidence. ASTRO has not challenged this determination.

⁹ Additionally, the agency noted that while the Pacific contract indicated that the work was performed with foreign military governments, the supporting information in the contractor performance assessment reporting system did not suggest that the
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considerations applicable to efforts involving domestic performance from those involving international security partners, stating that the latter efforts involve multiple stakeholders; are governed by different laws and regulations for planning and execution of those efforts; are tightly bound by cost, schedule and performance; and often are performed in remote, austere locations without U.S. resources readily available. Id.

For its oral presentation, ASTRO received a technical/risk rating of marginal. Id. at 26. The recording of ASTRO's response, including introductions and the presentation, lasts less than a half-hour. AR, Tab 32, ASTRO Response to Oral Presentation. ASTRO's presentation itself lasted around eighteen minutes, with some responses lasting no longer than a minute to each question, and other responses failing to fully respond to the question. For example, ASTRO's response to the fifth question--asking offerors to explain the company's practices and procedures for responding to personnel emergencies or deteriorating political and/or civil security situations when deployed--stated that it performs pre-travel checklists; always buys a roundtrip ticket for travel; and when in country, stays in daily contact with the embassy, civil affairs office, and local authorities to monitor the situation and remove personnel "if anything gets dangerous." Id. at minute 16:18-21:00. The SSEB assigned a weakness for this response, stating that ASTRO was not familiar with OCONUS travel and failed to provide detail on how they would use in-country resources to maintain local situational awareness. AR, Tab 30, SSEB Report, at 29. For the oral presentation, the SSEB assigned ASTRO a weakness for its response to each of the five questions, and identified no strengths. Id. at 27-30. In essence, each weakness was assessed because ASTRO's responses either failed to include sufficient details or specificity; repeatedly used generalities; or did not address the issues that arise in security cooperation engagements.

The SSA's best-value determination considered the SSEB and CET reports, and the SSA's independent assessment of the 22 offerors' ratings for the three evaluation factors. AR, Tab 34, SSD, at 1, 3. The SSA considered that technical was more important than cost in determining that the five awardees' proposals represented the best value to the government. Id. at 28-29. Because ASTRO's proposal was rated technically lower, it was determined not to be the best value. Id. at 34-35.

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contract was performed in conjunction with a security cooperation agreement. AR, Tab 30, SSEB Report, at 25.

On July 30, ASTRO was notified of award to the five firms. After receiving a debriefing, it timely filed this protest with our Office.¹⁰

DISCUSSION

ASTRO challenges the agency's evaluation of its technical approach, past performance, and oral presentation.¹¹ The protester also challenges the agency's best-value decision. We have reviewed the protester's challenges and find them to be without merit.

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, as the evaluation of proposals is generally a matter within the agency's discretion. Advanced Tech. & Labs. Int'l, B-411658 et al., Sept. 21, 2015, 2015 CPD ¶ 301 at 5. Rather, we will review the record only to assess whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. FP-FAA Seattle, LLC, B-411544, B-411544.2, Aug. 26, 2015, 2015 CPD ¶ 274 at 7.

A common thread throughout the protest is the allegation that the agency used unstated evaluation criteria in evaluating the protester's proposal. As explained below, we find this allegation to be unfounded. While solicitations must inform offerors of the basis for proposal evaluation, and the evaluation must be based on the factors set forth in the solicitation, agencies are not required to specifically list every area that may be taken into account, provided such areas are reasonably related to or encompassed by the stated criteria. MicroTechnologies LLC, B-403713.6, June 9, 2011, 2012 CPD ¶ 131 at 3.

For example, the protester asserts that the agency's basis for assessing the weaknesses in its technical approach is unreasonable and that the "security cooperation partner nation's evolving requirements" were not addressed by the solicitation. Protest at 23-29. The RFP and the SOW required offers to demonstrate a technical approach that would address tasks to support the C4I program office in support of authorized and approved security cooperation

¹⁰ The agency's legal memorandum notes that the agency was not required to stay performance of the contracts because ASTRO's protest was filed more than ten days after contract award and more than five days after the date of its debriefing. Legal Memorandum at 16.

¹¹ In its protest, ASTRO also generally alleged disparate treatment in the agency's evaluation of the awardee's proposal under the technical and past performance factors. On September 8, 2015, we dismissed these allegations as speculative because both failed to state a valid basis of protest. See 4 C.F.R. § 21.5(f).

programs with U.S.-allied and coalition nations. RFP at 83; AR, Tab 22, SOW at 2-3.

While we agree that the RFP and SOW did not specifically mention anticipating the security cooperation partner nations' evolving needs, the agency's concern in this regard was not its only basis for assessing this weakness. The record shows that the agency assessed two weaknesses because the protester's technical approach did not include sufficient details on how its program reviews, and efforts on design, engineering, and integration "might be impacted by the security cooperation partner nation's evolving requirements, technology transfer considerations, or other variables and uncertainties commonly encountered in security cooperation engagements." AR, Tab 30, SSEB Report at 22, 23 (emphasis added).

Accordingly, a reading of the weakness as a whole reveals that it deals more broadly with the protester's failure to consider issues that commonly arise in security cooperation agreements. In our view, the evaluation of an offeror's approach to performing the tasks contemplated in the SOW cannot be separated from the environment in which performance will occur; i.e., the agency could reasonably consider the context in which the tasks will be performed because that is an essential element to their evaluation. Thus, we view the agency's consideration of common issues encountered in security cooperation engagements as logically encompassed in a review of an offeror's technical approach to accomplish tasks required to implement a security cooperation program. Additionally, we find unavailing the protester's conflicting arguments that it had no notice that it needed to address the security cooperation partner requirements on the one hand, while alternatively acknowledging that its proposal addressed--and received a strength for--its "plan for handling complexities and challenges associated with supporting U.S. security cooperation partners." See Comments at 5, 9. Accordingly, we find the agency's evaluation unobjectionable.¹²

¹² To the extent the protester argues in its comments that the agency's affirmative answer to question No. 37--which was provided in response to questions that offerors submitted regarding the RFP prior to the closing date--prevented the agency from assigning a weakness for the protester's technical approach, we disagree. As relevant here, question No. 37 asked whether an offeror would be fully compliant with the requirements of the technical volume if it addressed only section 4.0 of the SOW. See AR, Tab 9, RFP Questions and Answers (Q&A) No. 1-40, at 7. The protester's argument attempts to consider performance of the requirement in a vacuum and outside the context of the requirements of the solicitation, which contemplated performance on a security cooperation engagement. See Comments at 3. Additionally, we find untimely the protester's attempt to support arguments in its October 16, 2015 supplemental comments--regarding the definition of international applications in Q&A No. 93--with information that was first presented more than 10 days prior in the agency's

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Similarly, to the extent the protester challenges the weaknesses assessed in its oral presentation based on unstated evaluation criteria, we find no basis to sustain the protest. For example, the protester contends that the assessment of a weakness for question No. 5--regarding a company's practices and procedures to respond to personnel emergencies or deteriorating situations--was unreasonable because neither the RFP nor SOW expressly required familiarity with government procedures or working in deteriorating political and/or civil conditions.¹³ Protest at 37.

In this regard, the RFP indicated that the oral presentation would be used to evaluate an offeror's understanding of difficulties and risks that might arise in performing the requirement. RFP at 95. The scenario here specifically asked about the offeror's practices related to deteriorating conditions. AR, Tab 27, Oral Presentation Scenario. Additionally, the RFP and SOW sought C4I capabilities for the international U.S. Navy program office responsible for providing C4I services to U.S.-allied and coalition nations on security cooperation agreements. The SOW required compliance with various DoD and SPAWAR foreign travel requirements. RFP at 81; AR, Tab 22, SOW at 1, 12. Additionally, DFARS clause 252.225-7040, included in the RFP, advised offerors that performance supporting U.S. armed forces would be outside the U.S. in austere or dangerous conditions. RFP at 57-58. On this record, we fail to see how familiarity with government requirements or consideration of deteriorating conditions constituted unstated evaluation criteria. Moreover, we find the agency's evaluation reasonable, considering that ASTRO's response failed to provide the details of its approach, which the RFP indicated would be inadequate. RFP at 83.

We also find unconvincing the protester's similar challenge to its past performance evaluation. For example, the protester contends that the agency improperly evaluated its past performance by placing undue emphasis on international security cooperation efforts because it was not expressly mentioned in the solicitation. Protest at 30-31. We note that in evaluating proposals, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. Food Servs., Inc. of Gainesville, B-411032.2, et al., Aug. 10, 2015, 2015 CPD ¶ 249 at 5. Here, the RFP notified offerors that their referenced past performance would be evaluated for

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September 21 report. See 4 C.F.R. § 21.2(a)(2); Protester's Supp. Comments at 8; AR, Tab 10, RFP Q&A No. 41-102, at 12.

¹³ As a threshold matter, we find no merit to an argument that a contractor proposing to perform a government contract need not be familiar with government procedures.

relevancy to the requirements of the solicitation and SOW. RFP at 94. As the primary purpose of the procurement at issue is to provide C4I capabilities in support of security cooperation programs with U.S.-allied and coalition nations, we think it is self-evident that experience with international security cooperation efforts is logically related to the relevancy of those contracts to the anticipated requirement. Because the protester's past performance did not include such experience, the agency reasonably rated it only somewhat relevant.

Finally, based on our conclusions regarding the reasonableness of the agency's evaluation, we find no merit to the protester's allegation that the agency's best-value determination was based on a defective evaluation and therefore unreasonable.

The protest is denied.

Susan A. Poling
General Counsel