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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

Decision

Matter of: Kearney & Company

File: B-298436.2

Date: October 4, 2006

John R. Tolle, Esq., Barton, Baker, McMahon, Hildebrant & Tolle, LLP, for the protester.

Kacie A. Haberly, General Services Administration, for the agency.

Peter D. Verchinski, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably rejected protester's quotation as technically unacceptable where quotation failed to provide technical/management information for team member under planned teaming arrangement, making it impossible for agency to fully evaluate quotation.

DECISION

Kearney & Company protests the rejection of its quotation as technically unacceptable under General Services Administration (GSA), Federal Supply Service, Services Acquisition Center, request for quotations (RFQ) No. XPN-B-XS014, for various financial management services for the Department of Homeland Security. Kearney asserts that the agency improperly evaluated its quotation.

We deny the protest.

The RFQ, issued on April 28, 2006, contemplated the award of a blanket purchase agreement (BPA) to multiple vendors holding a GSA Federal Supply Schedule (FSS) contract under Schedule 520, Financial and Business Solutions (FABS).¹ The BPA

¹ While our decision refers to the "award" of a BPA, which is the terminology used by the parties here, the Federal Acquisition Regulation (FAR) in fact refers to the "establishment" of a BPA against an FSS contract. FAR §§ 8.403(a)(2), 8.404(b). GSA's terminology reflects the fact that, although the agency proceeded under the

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encompassed a broad range of financial concepts, activities, and deliverables under schedule special item numbers 520 11 Accounting, 520 12 Budgeting, and 520 13 Complementary Financial Management Services.

Award was to be made on a “best value” basis, with evaluation factors of past performance, demonstrated technical/management capability, socioeconomic support, and price. Under the technical/management factor, firms were required to describe their technical approach, including “corporate visibility, emphasis, and involvement of the offeror in the effective management of work efforts, employee recruitment, pre-security screening of staff, and compensation and retention plans.” RFQ at 10. For evaluation purposes, as relevant here, price was equal in weight to the past performance and technical/management factors combined. Award was to be made without discussions. The RFQ provided no specific instructions for responding with a contractor teaming arrangement (CTA).²

Thirty-three vendors timely submitted quotations. After determining that four quotations were unacceptable, the agency awarded BPAs to nine firms. Kearney, which submitted its quotation as the “team leader” under a CTA with PricewaterhouseCoopers (PWC), was informed by letter dated July 12 that its quotation was rejected as technically unacceptable because (1) it lacked sufficient detail to allow for a definitive assessment under the demonstrated management/technical capability factor for SINs 520 12 and 520 13, and (2) PWC’s quoted rates exceeded those under its FABS schedule contract. Kearney requested a debriefing, and the agency responded by letter dated July 12. In that letter, the agency stated that the deficiencies cited in the June 13 letter were not accurate; rather, the actual deficiencies in Kearney’s quotation were that (1) it failed to sufficiently address the corporate visibility, emphasis, and involvement of PWC in the effective management of work efforts, and (2) it failed to address PWC’s employee recruitment, pre-security screening of staff, and compensation plans.

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FSS, it actually conducted the procurement much like a negotiated procurement under FAR part 15.

² Under a CTA, two or more GSA Schedule contractors work together, by complementing each other’s capabilities, to offer a total solution to meet an ordering activity’s requirement. CTAs under GSA schedule contracts differ from traditional prime contractor/subcontractor arrangements in that (1) each team member has privity of contract with the government, (2) each team member is responsible for its duties laid out in the CTA document, and (3) each team member must have a GSA schedule contract. Under GSA acquisition policy, CTAs are encouraged in response to government agency requirements. This information, submitted with the agency report, comes from GSA’s website, www.gsa.gov/contractorteamarrangements. Agency Report, Tab 6.

Kearney asserts that it was improper for the agency to reject its quotation for failing to provide information about PWC, since the solicitation did not specifically state that the agency would be evaluating teaming partners.

In reviewing an agency's technical evaluation of vendor submissions under an RFQ, we will not reevaluate the quotations; we will only consider whether the agency's evaluation was reasonable and in accord with the evaluation criteria listed in the solicitation and applicable procurement statutes and regulations. American Recycling Sys., Inc., B-292500, Aug. 18, 2003, 2003 CPD ¶ 143 at 4.

There was nothing unreasonable in the agency's evaluating PWC as part of Kearney's quotation. In evaluating proposals (or, as here, quotations), an agency reasonably may consider a firm's ability to perform the work required under the solicitation where the firm is a member of the offeror's proposed team involved in the contract effort, and the solicitation does not prohibit such consideration. See Wackenhut Servs., Inc., B-276012.2, Sept. 1, 1998, 98-2 CPD ¶ 75 at 6 (agency properly attributed teaming partner's experience to offeror); Myers Investigative and Sec. Servs., Inc., B-286971.2, B-286971.3, Apr. 2, 2001, 2001 CPD ¶ 59 at 4 (agency properly considered subcontractor's experience where solicitation did not prohibit such consideration).

Here, the solicitation did not prohibit the agency from evaluating this aspect of Kearney's quotation, and PWC was to be significantly involved in performing the contract work under the terms of the firms' CTA. In this latter regard, Kearney and PWC both were to be in privity of contract with the government and, furthermore, the terms of the Kearney/PWC CTA stated that (1) the firms will act as independent contractors, (2) neither firm has the right to make commitments or act as agent on behalf of the other firm without prior written consent, and (3) neither firm is liable for the acts of the other. Agency Report, Tab 5, GSA Schedule CTA, at 3. Given that PWC would have a significant role in performing the contract and, in fact, could be independently performing the work, it was entirely reasonable for the agency to evaluate PWC's demonstrated capability. It follows that, since Kearney's quotation's failure to include adequate technical/management information for PWC prevented the agency from fully evaluating PWC, the agency reasonably rejected the quotation.

Kearney also asserts that the agency improperly evaluated PWC's quoted rates as higher than those under PWC's FABS schedule contract, since the quotation specifically stated that the quoted rate would be discounted by 18 to 30 percent, making it lower than the schedule rate.

Prejudice is an essential element of a viable protest; we will not sustain a protest against an alleged evaluation error unless the protester was prejudiced by the agency's actions. See Shilog Ltd., Inc., B-261412.4, Nov. 8, 1995, 95-2 CPD ¶ 260 at 10. Here, even if we ultimately agreed with Kearney that this aspect of the evaluation was flawed, Kearney would not be in line for award because (as discussed above) its

quotation reasonably was found technically unacceptable under the technical/management factor. Consequently, Kearney was not prejudiced by any error in this area, and this argument thus provides no basis for sustaining the protest. AEC-ABLE Eng'g Co., Inc., B-257798.2, Jan. 24, 1995, 95-1 CPD ¶ 37.

The protest is denied.

Gary L. Kepplinger
General Counsel