



Decision

Matter of: Southern Hog Control, LLC

File: B-422307

Date: April 17, 2024

Christopher Monhof for the protester.
Jason M. Fragoso, Esq., Department of Veterans Affairs, for the agency.
Christine Milne, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO,
participated in the preparation of the decision.

DIGEST

Protest that the agency unreasonably evaluated the awardee's quotation is denied where the record shows that the agency evaluated the awardee's quotation in accordance with the solicitation terms.

DECISION

Southern Hog Control, LLC, of Seale, Alabama, protests the award of a contract to 3 Squared Technology Group, of Pike Road, Alabama, under request for quotations (RFQ) No. 36C78624Q50039, issued by the Department of Veterans Affairs (VA) for wildlife management services at Fort Mitchell National Cemetery in Fort Mitchell, Alabama. The protester asserts that the agency unreasonably evaluated the awardee's quotation under the technical capability and past performance factors.

We deny the protest.

BACKGROUND

The VA issued the RFQ on December 6, 2023, pursuant to Federal Acquisition Regulation part 13, for wildlife management services at the Fort Mitchell National Cemetery. Agency Report (AR), Tab 4, RFQ, Statement of Work (SOW) at 6. The RFQ primarily seeks services to address sanitation issues and damage caused by feral hogs, and the contractor is required to trap, reduce, and control the feral hog population using methods described in the RFQ. *Id.* at 6-7. Vendors were to propose a site manager who would ensure this work was performed in accordance with the terms of the solicitation as well as manage and supervise employees. *Id.* The site manager was required to have at least five years of experience performing all tasks in the scope of

work and supervising employees performing those tasks. *Id.* at 7. The contract was to be performed over a 1-year base period and four 1-year option periods. RFQ at 4-5.

Award would be made to the vendor offering the best value to the government, considering technical capability, past performance, and price. *Id.* at 45-46. The technical capability factor included two subfactors: (1) experience and training of personnel and technical services, and (2) understanding of work requirement and performance work plan. *Id.* at 46. For the first subfactor, quotations were to be evaluated based on qualification materials such as resumes and references. *Id.* For the second subfactor, quotations were to be evaluated based on a vendor's written plan for how work was to be performed. *Id.* The technical capability factor was evaluated using a rating scheme of outstanding, good, acceptable, or unacceptable. AR, Tab 8.2, 3 Squared Technical Capability Evaluation at 1.

The past performance factor required vendors to submit at least three past performance references on projects performed within the last three years that were similar in size, scope, and pricing. RFQ at 46. Past performance was to be evaluated considering such things as a vendor's record of conforming to contract requirements and reputation for good workmanship. *Id.* This factor was evaluated using a rating scheme of low risk, medium risk, unknown risk, or high risk. AR, Tab 8.1, 3 Squared Past Performance Evaluation at 1. Price was evaluated for reasonableness. RFQ at 46.

The agency received four quotations, including those of 3 Squared and Southern Hog, the incumbent contractor. Their quotations were evaluated as follows:

	Technical Capability	Past Performance	Price
3 Squared	Outstanding	Low Risk	\$243,204
Southern Hog	Good	Low Risk	\$538,440

AR, Tab 8, Award Decision at 2; AR, Tab 8.1, 3 Squared Past Performance Evaluation at 1; AR, Tab 8.2, 3 Squared Technical Capability Evaluation at 1; AR, Tab 8.3, Southern Hog Past Performance Evaluation at 1; AR, Tab 8.4, Southern Hog Technical Capability Evaluation at 1.

In evaluating 3 Squared's quotation under the technical capability factor, the agency assigned three strengths: one for the awardee's understanding of feral hog control; another for its use of current tracking and euthanasia methods; and the third for its site manager's extensive experience with trapping feral wildlife. AR, Tab 8.2, 3 Squared Technical Evaluation at 2. The agency concluded that 3 Squared presented a plan demonstrating the firm understood the complexity of the requirement, that there would be little risk in awarding to the firm and assigned its quotation a rating of outstanding. *Id.* at 1. Under the past performance factor, the agency assigned 3 Squared's quotation a strength because its quotation included projects of similar size and scope; that is, one was for feral hog services, and the other two were for different types of wildlife management. AR, Tab 8.1, 3 Squared Past Performance Evaluation at 1. The agency

concluded that 3 Squared posed low risk based on prior experience given the size and dollar value of its cited examples and assigned its quotation a rating of low risk. *Id.*

In evaluating Southern Hog's quotation under the technical capability factor, the agency assigned two strengths: one for the firm's technical personnel and one for its inclusion of three hog traps in addition to the four required. AR, Tab 8.4, Southern Hog Control Technical Capability Evaluation at 2. The agency also assigned the firm's quotation one weakness here because it did not describe the method to be used and relied more on previous experience at the cemetery. *Id.* The agency concluded that Southern Hog's quotation presented a statement that spoke to its experience but only provided "adequate details regarding processes in the [statement of work]," and assigned its quotation a rating of good. *Id.* at 1. Under the past performance factor, the agency assigned Southern Hog's quotation one strength because the firm previously performed feral hog control services for the cemetery in accordance with the solicitation's requirements. AR, Tab 8.3, Southern Hog Control Past Performance Evaluation at 1. The agency concluded that Southern Hog posed little risk given its performance as a contractor at this cemetery for the same services and assigned its quotation a rating of low risk. *Id.*

In its award decision, the agency noted that 3 Squared had a high likelihood of fulfilling the requirement because it had the required technical experience and its site manager had several years of experience with feral hog management. AR, Tab 8, Award Decision at 1. The agency also noted that 3 Squared's past performance references were all similar in size and scope, and one specifically required feral hog control. *Id.* at 4. The agency concluded that while other firms demonstrated a good understanding of the requirements, 3 Squared's outstanding technical approach combined with its similar past performance experience and competitive price, the lowest of all quotations, made its quotation the best value for the agency. *Id.*

The agency made award to 3 Squared on January 10, 2024, for \$243,204, and the award notice was posted on the governmentwide point of entry, www.sam.gov. Contracting Officer's Statement at 6. This protest followed.

DISCUSSION

Southern Hog raises several challenges to the awardee's quotation, asserting generally that 3 Squared cannot meet the requirements of the solicitation under the technical capability and past performance factors. We have considered all the arguments and find that none provide us with a basis to sustain the protest. We note at the outset that, in reviewing protests challenging an agency's evaluation of quotations, our Office does not reevaluate quotations or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *SKE Italy Srl*, B-414884.3, Jan. 24, 2018, 2018 CPD ¶ 37 at 4.

Southern Hog first asserts that 3 Squared cannot meet the experience requirements under the technical capability factor because it is not a feral hog control company. Protest at 1. The agency responds that the RFQ does not require the firm to have experience in feral hog control services specifically, but rather requires a vendor's site manager to have at least five years of experience in wildlife management, and the awardee's site manager met this requirement. Memorandum of Law at 4. The protester does not dispute this but responds that 3 Squared's quotation intentionally misled the agency about its experience because, according to the protester, the awardee is still trying to hire staff to perform the contract. Comments at 2. The only evidence that Southern Hog offers to support this assertion is its claim that 3 Squared contacted it and several other firms in the industry to hire subcontractors to perform the work. *Id.* at 1-2. We deny this allegation.

The protester has not shown that the agency unreasonably evaluated the awardee's quotation or that the awardee intentionally misrepresented its proposed personnel to the agency. First, the solicitation did not require firms to have experience with feral hog control, but rather required that a vendor's site manager have at least five years of experience with wildlife management similar to the tasks in the SOW, and experience managing and supervising employees performing those tasks. RFQ at 6-7. Our review of the record shows that 3 Squared's quotation includes a description of its site manager's experience demonstrating the requisite five years of experience in wildlife management and employee supervision and includes a letter of commitment from this individual. AR, Tab 6, 3 Squared Non-Price Quotation at 6, 12. Therefore, we conclude that the agency reasonably determined that 3 Squared's quotation met the technical requirements in this regard.

Second, the protester's assertion that the awardee contacted it and other firms for the purpose of hiring a subcontractor because the awardee, in particular the site manager, will not perform the contract amounts to unsupported speculation. The question of whether personnel identified in a vendor's quotation will, in fact, perform under the subsequently awarded contract is generally a matter of contract administration that our Office does not review. See *Bid Protest Regulations*, 4 C.F.R. § 21.5(a); *Strativia LLC*, B-421511, B-421511.2, Jun. 14, 2023, 2023 CPD ¶ 144 at 4. Nonetheless, our Office will consider allegations that a vendor proposed personnel that it did not have a reasonable basis to expect to provide during contract performance in order to obtain a more favorable evaluation, as such a material misrepresentation has an adverse effect on the integrity of the competitive procurement system. *Id.* Our decisions frequently refer to such circumstances as a "bait and switch." *ASRC Federal Data Solutions, LLC*, B-421008, B-421008.2, Dec. 2, 2022, 2022 CPD ¶ 294 at 4-5. In order to establish an impermissible "bait and switch," a protester must show: (1) that the awardee either knowingly or negligently represented that it would rely on specific personnel that it did not have a reasonable basis to expect to furnish during contract performance; (2) that the misrepresentation was relied on by the agency; and (3) that the agency's reliance on the misrepresentation had a material effect on the evaluation results. *Id.*

Here, Southern Hog has not shown that 3 Squared knowingly or negligently represented that it would rely on specific personnel that it did not have a reasonable basis to expect to furnish during contract performance. As described above, 3 Squared's quotation contained a signed letter of commitment from its site manager, and Southern Hog has not challenged this. Assuming that 3 Squared is seeking subcontractors, this by itself is not evidence that 3 Squared has performed a bait and switch because it could be seeking subcontractors for a number of reasons, including for other contracts it is bidding on or performing.¹ As Southern Hog's claim fails to demonstrate a bait and switch, the issue of whether 3 Squared's site manager actually performs remains a matter of contract administration that we will not consider further. *ASRC, supra* at 7.

Southern hog asserts next that 3 Squared does not have the requisite experience performing feral hog control within the last three years to meet the past performance requirements. Protest at 1. Although the agency provided a detailed response to this allegation in its report, the protester did not respond to the agency's position in its comments. Accordingly, we dismiss this allegation as abandoned. *Triad Logistics Servs. Corp.*, B-417621.2, Nov. 5, 2019, 2019 CPD ¶ 381 at 3 n.1 (explaining that where an agency provides a detailed response to a protester's assertion and the protester fails to rebut or respond to the agency's argument in its comments, the protester fails to provide us with a basis to conclude that the agency's position with respect to the issue in question is unreasonable, and as a result, the protester abandons the assertion.).

In any case, we note that the RFQ did not require vendors to provide past performance references related specifically to feral hog control, but rather required past performance references that were similar in scope, meaning "all types of work this project is asking for as described in the solicitation." RFQ at 46. As explained above, the SOW described wildlife management in general, with an emphasis on feral hog control. Our review of the record shows that 3 Squared's quotation included three past performance references, one relating to feral hog control, and the other two relating to bird control and other wildlife management, all performed within the last three years. AR, Tab 6, 3 Squared Non-Price Quotation at 13. Therefore, even if the protester had responded to the agency, we would have no basis to conclude that the agency unreasonably determined that 3 Squared met the past performance requirement.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

¹ The RFQ did not require vendors to identify their subcontractors, if using any.