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Decision

Matter of: EMW, Inc.; Pragmatics, Inc.; Futron, Inc.; VMDn, LLC

File: B-409686.4; B-409686.7; B-409686.8; B-409686.10; B-409686.11;
B-409686.13

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Col. Robert J. Preston, II, Col. Graeme S. Henderson, Col. Barbara E. Shestko, Lt. Col. Mark E. Allen, Maj. Jeremy D. De Roxas, Maj. Keric D. Clanahan, Capt. Nicholas Frommelt, Capt. Eric J. Singley, Marvin K. Gibbs, Esq., Behn M. Ayalya, Esq., Judy Sukol, Esq. and Matthew H. Walker, Esq., Department of the Air Force, for the agency.

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DIGEST

Protests challenging an agency's elimination of proposals as technically unacceptable are denied where record shows that agency's evaluation was reasonable and in accordance with the terms of the RFP, as well as applicable statutes and regulations.

DECISION

EMW, Inc., of Herndon, Virginia; Pragmatics, Inc., of Reston, Virginia; Futron, Inc., of Woodbridge, Virginia; and VMDn, LLC, of Reston, Virginia, protest the rejection of their respective proposals by the Department of the Air Force under request for

proposals (RFP) No. FA8771-09-R-0019, issued to acquire a wide array of information technology services and products. The protesters maintain that the agency misevaluated their proposals and improperly rejected them.

We deny the protests.

BACKGROUND

The RFP, issued September 28, 2010, solicited proposals to provide network operations, infrastructure and service oriented architecture information and transformation services and solutions to the Air Force and other Department of Defense agencies at locations worldwide. The overarching acquisition commonly is referred to as Network Centric Solutions-2, or NETCENTS-2, and these protests concern the award of contracts to small business concerns under the small business set-aside portion of the acquisition. The RFP anticipates the award of multiple indefinite-delivery/indefinite-quantity (IDIQ) contracts that include cost reimbursable elements, fixed-price elements, and labor hour elements. RFP at 2-33.¹ The RFP contemplates a 3-year base period, and up to four 1-year option periods, during which the agency can award one or more task orders to the successful contractors. Id. Each awarded contract has a minimum guaranteed value of \$2,500; the maximum value of the contracts awarded under the small business set-aside portion of the agency's acquisition is \$5.7 billion. RFP at 36.

The agency was to award contracts on a "best value" basis using a performance price tradeoff procedure. RFP at 223. The agency anticipated awarding between six and nine contracts, but reserved the right to make more, fewer, or no awards. Id. at 224. Firms were advised that the agency would first evaluate proposals for technical acceptability on a pass/fail basis. The agency was to perform a performance confidence assessment and cost/price evaluation on the proposals found technically acceptable or reasonably susceptible of being made technically acceptable. Id. Award decisions were to be based on an integrated assessment of performance confidence and cost/price; performance confidence was significantly more important than price. Id. at 223.

In terms of technical acceptability, the RFP advised that proposals would be evaluated considering five factors: quality processes, metadata environments development, network management and network defense cost reimbursable sample task order response, information transportation system fixed-price sample task

¹ All citations to the solicitation in this decision are to the conformed RFP provided in each of the separate agency reports submitted in response to these protests. All citations to the agency report are to the individual agency reports for each protest.

order response, and management approach. Id. Proposals were assessed on a pass/fail basis under each of these factors.²

The offerors' cost/price proposals were to be comprised of several elements. First, offerors were required to respond to a cost reimbursable sample task order that demonstrated their technical solution and proposed cost in response to a sample task in the network management and network defense, remote application management system (RAMS) area. In preparing their cost proposals in this area, offerors were required to prepare a workbook (RFP attach. 21) and specify their RAMS labor category descriptions, their proposed RAMS labor (level of effort, labor mix and rates), and RAMS hardware, software and other direct costs. RFP at 217-219. Second, offerors were required to respond to a fixed-price sample task in the CITS (combat information transport system) area. Third, offerors were required to prepare a maximum labor rates best estimated quantities worksheet that included maximum hourly rates for various labor categories specified. Finally, offerors were required to calculate a total evaluated price (TEP) comprised of their cost/price responses to the sample tasks, along with their calculated total price from the maximum labor rates best estimated quantities worksheet. Id. at 217-218.

For evaluation purposes, the RFP provided that the agency would consider the reasonableness of the three components of the TEP (the two task order responses, along with the labor rates best estimated quantities worksheet). RFP at 231. The RFP also provided that the agency would evaluate the realism of the offerors' proposed cost for the cost reimbursable task order. Id. Finally, the RFP provided that the agency would evaluate proposals for unbalanced pricing.

The agency received 29 proposals in response to the solicitation, two of which were subsequently withdrawn. The agency evaluated proposals, engaged in discussions, and solicited, obtained and evaluated final proposal revisions (FPRs). On the basis of that evaluation, the agency found five proposals technically unacceptable and eliminated them from further consideration. As discussed in our prior decision, the agency ultimately made award to the 12 concerns that received substantial confidence ratings. The agency advised the protesters of its selection decisions.

² The proposals of all of the protesters here were found unacceptable under one or another of these factors although, as discussed in detail below, VMDn's proposal was eliminated as unacceptable because the firm submitted a prior version of its cost/price proposal with its final proposal revision. As a result, the performance confidence evaluation is not at issue here. Other protesters whose proposals were found technically acceptable objected to the agency's performance confidence evaluation and source selection decisions. We addressed those protests in a separate decision. Intelligent Decisions, Inc.; Abacus Technology Corp.; D&S Consultants, Inc.; CDO Techs., Inc., B-409686 et al., July 15, 2014, 2014 CPD ___.

After requesting and receiving debriefings from the Air Force, the protesters filed with our Office.

PROTESTS

Each protester maintains that its proposal improperly was excluded from further consideration for the reason identified by the agency. We have carefully reviewed the protests and, for the reasons discussed below, find them to be without merit. We note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not independently evaluate proposals; rather, we review the agency's evaluation to ensure that it is reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. SOS, Int'l, Ltd., B-402558.3, B-402558.9, June 3, 2010, 2010 CPD ¶ 131 at 2.

EMW Protest

As noted, one of the RFP's requirements was to respond to a fixed-price sample task order to provide a CITS information transport system. Specifically, the RFP provided that offerors had to establish an integrated enterprise Air Force network operations capability at Yokota Air Force Base. Among other things, offerors were required to provide a "network topology" and describe how the network topology was developed. RFP at 211. In connection with responding to this element of the requirement, EMW proposed a synchronous optical network (SONET) "ring" which provided connectivity among a number of installation buildings.³ Agency Report (AR), exh. 3, EMW 009_V2 -Tech - EMW_FPR_EMW_EMW_Vol 2, at 53.

After evaluating EMW's initial proposal, the agency found it technically unacceptable for several reasons. Among these was that EMW's proposed SONET ring included the main medical enclave (MME) as one of the information transfer nodes (ITNs) for its SONET. According to the evaluators, EMW "meshed" the MME into the base operational network, and this was prohibited by the law of armed conflict. AR, exh. 11, EMW.006_EMW-Consensus_EMW NetOps Subfactor 4 Consensus, at 4. The record also shows that the evaluators identified a second, related, deficiency in the EMW-proposed SONET ring--EMW had not explained what protection scheme its solution would use in the event of a failure of the primary SONET ring. Id.

The agency advised EMW of these concerns, as well as other concerns, during the course of discussions. AR, exh. 6, EMW.002_ENs – EMW, at 20. EMW provided a narrative response to the agency's discussion question in this area. AR, exh. 9, EMW.001_EMW EN Response, at 33. In addition, EMW updated its proposal to

³ The SONET ring essentially connects specific equipment among a number of buildings using fiber optic cable.

show its implementation of its proposed solution to these two concerns. AR, exh. 3, EMW 009_V2 -Tech - EMW_FPR_EMW_EMW_Vol 2, at 52-58.

Upon reevaluation, the agency evaluators concluded that EMW's proposal still was technically unacceptable because the MME continued to be used as an ITN in its SONET ring, thereby allowing for the possibility of operational or combat traffic to pass through the MME. AR, exh. 11, EMW.006_EMW-Consensus_EMW NetOps Subfactor 4 Consensus, at 5.

EMW essentially takes the position that the agency improperly rejected its proposal for failing to meet the requirements discussed above. According to the protester, it proposed a "two-layer" approach that segregated medical traffic from operational or combat traffic. EMW states that this two-layered approach adequately responds to the agency's concern because it prevents non-medical traffic from passing through the MME. The protester also argues that nothing in the RFP prohibited the MME from being an ITN.

We conclude that the agency's concern was reasonable. We first turn to the question of the protester's proposed two-layered approach. The record shows that, as EMW contends, its proposal provides for separation of medical and non-medical traffic using a two-layered approach. However, this separation is expressly identified as separation of traffic within a particular facility. Specifically, in a narrative description of a diagram that graphically depicts its proposed solution, the proposal states: "Figure 26 illustrates EMW's understating of separating medical services from combat control systems within a base facility." AR, exh. 3, EMW 009_V2 -Tech - EMW_FPR_EMW_EMW_Vol 2, at 57-58 (emphasis supplied). EMW's proposal also acknowledges the possibility of medical traffic passing through a non-medical facility: "It is acknowledged due to the design of the base fiber optic plant that medical traffic may have to pass through a combat support building. The traffic is engineered to be physically separated on different pairs of fiber optic cable." Id. at 58. The record therefore shows that EMW's proposed two-layer approach did not result in segregating medical traffic from non-medical traffic within a given facility; medical and non-medical traffic pass through each facility, albeit in parallel.

EMW's proposal also shows that the protester's proposed solution to the agency's other concern--providing a protection scheme in the event the primary SONET ring experiences failure--was at the heart of its failure to demonstrate that its proposed solution met the requirements of the law of armed conflict. In this connection, the EMW proposal specifically shows that the MME is an ITN that is placed between two other, non-medical, ITNs. Id., at 53. EMW's proposal also shows that the firm proposed a unidirectional path switched ring (UPSR) protection mechanism to provide a solution in the event of a failure of the primary SONET ring. Id., at 55. Of

significance, EMW's proposal shows that, ordinarily, traffic on the SONET ring will travel in a clockwise direction. Id.⁴ However, EMW's UPSR protection scheme expressly provides that, in the event of a failure of the primary SONET ring, the system will direct traffic to a redundant SONET ring. Id. at 56. Traffic on the redundant SONET ring travels in a counterclockwise direction. Id.

On this record, we have no basis to question the agency's conclusion that, because there is the possibility that traffic in the SONET ring will reverse directions in the event of a failure of the primary SONET ring, there is the possibility that non-medical traffic will travel through a medical facility (the MME), thereby directly violating the law of armed conflict. We therefore agree that this provided a reasonable basis to find the EMW proposal technically unacceptable.

As a final matter, we point out that the protester is incorrect in its assertion that nothing in the RFP prohibited the MME from being an ITN. The RFP expressly states: "**Main Medical Enclave (MME) and AFMSA support:** The use of a medical facility, or noncombatant facility with respect to the Law of Armed Conflict (LoAC), as an ITN for ITS is not allowed." RFP at 308 (emphasis supplied). See also, RFP at 269: "LoAC [law of armed conflict] has been interpreted as prohibiting connections from the MME to multiple ITNs, since the MME can, in principle, be used as an alternate path for non-medical traffic." EMW's proposal, which specifically shows the MME connected to two non-medical ITNs is in direct conflict with these RFP requirements, and it is precisely this concern that led the agency to find its proposal technically unacceptable.

In view of the foregoing, we deny EMW's protest.

Futron Protest

The record shows that Futron's proposal was found technically unacceptable for failing to meet one of the requirements associated with the network management and network defense, RAMS cost reimbursable sample task order. One of the sample task order requirements was to provide the agency with what is referred to as a virtual infrastructure capability, defined as follows:

The RAMS Virtual Infrastructure [VI] consolidates enterprise network management and defense capabilities into a single integrated configuration based on a common virtual infrastructure. The solution is intended to support all information systems operating on AF managed networks. The offeror will provide a recommended approach for accomplishing critical VI requirements.

⁴ Presumably, this is the underlying basis for EMW's acknowledgement that medical traffic potentially could flow through a non-medical facility.

RFP at 209. In addition to providing information about the remaining requirements of the virtual infrastructure, the RFP advised offerors that they were required to propose all knowledge, abilities, skills and products (hardware and software) needed to accomplish the sample task. Id. at 209-210.

As is pertinent to Futron's protest, one of the hardware elements necessary to perform the sample task order is referred to as computer "blades," which the parties describe as database server platforms. The RFP included a list of equipment that comprised the agency's existing hardware components that made up the virtual infrastructure architecture, and this list included HP BL460c blades. However, the RFP also expressly provided as follows: "All hardware resources are listed in table 2.0 Hardware Components. It should be assumed that no disk space or blade is available for this sample task order and that the offeror should propose additional hardware of this form factor." RFP at 484 (emphasis supplied).

As noted by Futron, its initial proposal included, among other things, eight HP BL460c blades in connection with responding to the virtual infrastructure element of the sample task. The record shows that the agency reviewed Futron's proposed response to the sample task order and concluded that, while the number of blades proposed was feasible, it would introduce an element of risk into the firm's proposed solution. Accordingly, the agency posed the following discussion question to Futron:

FUT [Futron] proposed to purchase 8 blades for this task order, which was feasible to meet RAMS requirements, but in the Government's opinion, it would place an element of risk into FUT's RAMS efforts in terms of redundancy, capability, and performance. Additionally, FUT proposed to purchase 4 new Netapp Devices (FAS3070 and FAS6070), which was in the Sample Task Order. It was unclear as to FUT's intent with this new hardware procurement given that it already existed per the sample task order. Lastly, FUT leveraged many software tools within its proposal, but they did not propose to purchase any of it especially those tools that were outside the assumed/available for use category as defined in the Sample Task Order.

Provide an updated product solution to meet the stated requirements or explain how the asterisked requirements of the sample task order can be accomplished with the proposed products (hardware and software). Ensure all needed hardware and software is provided in Attachment 21.

AR, exh. 6, FUT.002_ENs – FUT, at 7.

In response to this question, Futron eliminated all of its originally-proposed blades, and instead proposed to use the blades listed in the solicitation as existing government hardware to meet this element of the requirement. AR, exh. 3, FUT.013_V2 -Tech -FUT_FPR_FUT_Tracked Changes_FUT Vol II Tech TC, at 58. The agency evaluated Futron's FPR and found it technically unacceptable for failing to propose adequate hardware--in particular, an adequate number of blades--to meet the requirements of the sample task order. AR, exh. 11, FUT.002_FUT Tech Consensus, at 31, 32.

Futron essentially asserts that the agency misled it during discussions. According to the protester, the wording of the agency's discussion question led it to believe that it could use the blades on hand that were listed in the RFP as existing government equipment.

We find no merit to Futron's assertion. In negotiated procurements, whenever discussions are conducted by an agency, they are required to be meaningful, equitable, and not misleading. Metro Mach. Corp., B-295744, B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 19. Where the manner in which an agency communicates with an offeror during discussions misleads an offeror into responding in a way that does not address the agency's concerns, the discussions are inadequate. Metro Mach. Corp., B-281872 et al., Apr. 22, 1999, 99-1 CPD ¶ 101 at 6-7.

Here, however, there was nothing misleading in the agency's discussions with Futron. Instead, it appears that the protester simply misread the agency's question. A careful examination of the question shows that the agency was asking about three different things: 1) the agency advised that, although Futron's proposal of eight blades was feasible, it introduced risk into its proposed solution in terms of redundancy, capability and performance; 2) Futron proposed to purchase four Netapp devices that already existed as part of the sample task order, and the agency was confused about this proposal under the circumstances; and 3) Futron leveraged many software tools but did not propose to purchase those tools. AR, exh. 6, FUT.002_ENs – FUT, at 7.

Based on Futron's FPR, it appears that the protester believed that both the blades and the four Netapp devices were being referenced by the agency in the third sentence of the discussion question which stated: "It was unclear as to FUT's intent with this new hardware procurement given that it already existed per the sample task order." AR, exh. 6, FUT.002_ENs – FUT, at 7.

However, the record shows that the first sentence of the question clearly was informing Futron that the number of blades it proposed, while feasible, nonetheless introduced an element of risk into its proposed solution. In effect, the agency was advising Futron to consider whether it had proposed enough blades to mitigate the potential risk in terms of redundancy, capability and performance posed by its

technical solution, not that it had proposed too many blades. This is evident when the discussion question is read in conjunction with the terms of the RFP which, as noted, expressly advised that: “It should be assumed that no disk space or blade is available for this sample task order and that the offeror should propose additional hardware of this form factor.” RFP at 484 (emphasis supplied). In light of this clear advice to the offerors concerning the availability of the government-owned blades, we have no basis to conclude that Futron could reasonably have been misled by the agency’s discussion question.

Futron also argues that it was unreasonable for the agency to have eliminated its proposal as technically unacceptable for failing to include what it describes as a de minimus cost element in its proposed solution. According to Futron, the value of the blades in relation to the overall value of the proposed sample task order could not have formed a reasonable basis to reject its proposal. However, the cost or value of this element is immaterial in light of the fact that the record shows it was a material element in providing a technically acceptable proposed solution.

In view of the foregoing, we deny Futron’s protest.

Pragmatics Protest

The record shows that Pragmatics’ proposal was eliminated as technically unacceptable for failing to meet one of the requirements associated with the network management and network defense, RAMS cost reimbursable sample task order. In particular, one of the requirements of that sample task order was to provide “sustainment” which the RFP described as providing “tier 3” support of the fielded RAMS solution. RFP at 516.

The record shows that the agency originally found this aspect of Pragmatics’ technical proposal acceptable, AR, exh. 11, 003_Subfactor 3 Individual Eval_Redacted, at 39, specifically concluding: “[Pragmatics] will ensure 7x24x365 support for RAMS infrastructure by the team equipped with knowledge and tools for rapid problem resolution.” See also id. at 45:

[Pragmatics’] proposed level of effort for this task order was sufficient to complete the asterisked items as required. [Pragmatics] proposed to utilize [deleted] hours for the development and [deleted] hours for the sustainment in the last 8 years [for the] asterisked items in the sample task.

The agency based this initial conclusion on a reading of Pragmatics’ technical proposal, along with a reading of attachment 21, which included the offeror’s RAMS level of effort and staffing mix required to perform the requirement. See AR, exh. 3, PRM.019_V2 -Tech - PRM_A6_PRM_PRM_Subfactor 3, at 21; AR, exh. 3, PRM.047_V4 - Price - PRM_A6_PRM_PRM_Atch_21, at 69. Those materials

showed that Pragmatics had proposed a level of effort of [deleted] hours per year to meet this requirement.

During discussions, the agency did not raise any questions concerning this aspect of Pragmatics' proposed technical approach because it was found acceptable. However, the agency did ask Pragmatics a general discussion question in the area of its proposed cost for the RAMS sample task order. Specifically, the agency asked: "Notwithstanding a technical review of your RAMS sample task order proposal it appears, from a pricing perspective, that the total RAMS price is high. PRM should consider the impact this price has to the TEP." AR, exh. 6, PRM.002_ENs – PRM, at 18.

In its response to the agency's discussion question, Pragmatics stated that it had reduced its costs for the sustainment element of the requirement to provide what it described as "[deleted]." AR, exh. 9, PRM.001_ENs – PRM, at 21. The agency subsequently requested FPRs from the offerors. In its letter requesting FPRs, the agency specifically advised Pragmatics that responses to the agency's discussion questions had to be incorporated into the firm's proposal in order to be considered. AR, exh. 22, 013_NOSB_FPR_Letter, at 2.

In submitting its FPR, Pragmatics included the identical narrative text in its technical proposal relating to sustainment that it had included in its original proposal. Compare, AR, exh. 3, PRM.019_V2 -Tech - PRM_A6_PRM_PRM_Subfactor 3, at 21, with AR, exh. 3, PRM.028_V2 -Tech - PRM_FPR_PRM_PRM_Subfactor 3, at 22. The only difference was that, in its original proposal, Pragmatics included a list of seven discrete sustainment tasks it proposed to perform, along with a monthly estimate of the number of hours required for each task. In its FPR, the same list of tasks was included, but the estimated number of hours per month for each task had been removed. In addition, Pragmatics revised its attachment 21 task order cost workbook, reducing its proposed level of effort for the sustainment element from [deleted] hours per year to just [deleted] hours per year. Compare AR, exh. 3, PRM.047_V4 - Price - PRM_A6_PRM_PRM_Atch_21, at 69, with AR, exh. 3, PRM.051_V4 - Price - PRM_FPR_PRM_PRM_Atch_21, at 69.

The record shows that the agency reviewed Pragmatics' FPR and concluded that it was technically unacceptable. In performing its evaluation, the evaluators specifically found that the firm's revised proposed level of effort for sustainment was insufficient to meet this element of the requirement; that Pragmatics did not provide an adequate explanation to support its decreased level of effort; and that Pragmatics had not included what the agency considered an appropriate labor mix to accomplish the sustainment effort. AR, exh. 11, PRM.002_PRM_Tech_Consensus, at 30. The agency evaluators found Pragmatics proposal technically unacceptable on this basis. Id.

Pragmatics argues that the agency erred in finding its proposal technically unacceptable. According to the protester, it explained in its response to the agency's discussion question (as well as in a change matrix submitted with its FPR) the change in its proposed technical approach to accomplishing the sustainment element of the requirement, and the agency improperly failed to consider this explanation. In the alternative, Pragmatics argues that the agency simply should have made an upward adjustment to its evaluated cost in this area rather than finding it technically unacceptable.

We find no merit to Pragmatics' protest. As described in detail above, Pragmatics did not change its technical proposal in terms of its explanation for how it would accomplish the sustainment element of the requirement from its original proposal to its FPR. The agency therefore was left with an identical proposed technical solution, but a significant reduction in the proposed level of effort, as well as a change in the firm's staffing mix for this requirement. As a result, the agency concluded that Pragmatics' revised level of effort and staffing mix were inadequate to perform the sustainment requirement in light of its technical approach. On this record, we have no basis to find the agency's conclusion unreasonable.

Despite the protester's contentions, we are not persuaded that the agency acted improperly by not considering the brief references in Pragmatics' discussion response and proposal change matrix in evaluating Pragmatics' FPR. As noted, the agency specifically advised Pragmatics in requesting the firm's FPR that responses to the agency's discussion questions had to be incorporated in the firm's proposal in order to be considered by the agency. Pragmatics made no change to its technical proposal in terms of describing its approach to meeting the sustainment requirement. Thus, Pragmatics failed to follow the agency's specific instructions to include any change made during discussions in its technical proposal, and the agency properly relied on the terms of the technical proposal--rather than the information included in the firm's discussion response--in performing its evaluation.

Finally, we are unpersuaded by the protester's contention that the agency should have addressed its concern by simply making an upward adjustment to Pragmatics' evaluated cost in this area. As noted, offerors were required to include a detailed description of their labor categories, their proposed level of effort, and their proposed labor mix, in attachment 21. Accordingly, these requirements were not simply elements of the firm's proposed cost, but also represented material elements of its proposed technical approach. Under the circumstances, it would have been inappropriate for the agency to make an adjustment to Pragmatics' proposed cost because any such adjustment would have been tantamount to the agency making changes to the firm's proposed technical approach.

In view of the foregoing, we deny Pragmatics' protest.

VMDn Protest

The record shows that, when VMDn submitted its FPR, it erroneously included an earlier version of its cost/price proposal. As a consequence, the agency determined that the VMDn proposal was ineligible for award because its cost proposal varied substantially from its technical proposal. VMDn essentially argues that it was unreasonable for the agency to have rejected its proposal and that the agency either should have allowed it to submit its revised cost/price proposal or, alternatively, should simply have evaluated its proposal as submitted, and made cost realism adjustments during its evaluation.

We find no merit to VMDn's protest. As discussed above, an essential element of the offerors' proposals was attachment 21, which included not only pricing information relating to the offerors' proposed solution to the RAMS sample task order, but also essential technical information relating to the offerors' proposed solution as well. For example, as noted, offerors were required to include detailed descriptions of their labor categories, their proposed level of effort, and their proposed labor mix.

The record shows that the agency asked VMDn extensive discussion questions in each of these three areas, and VMDn responded by making extensive changes in each area. For example, the record shows that the agency advised VMDn about a concern relating to the labor category descriptions included in its response to the RAMS sample task order because VMDn erroneously used labor category descriptions from the maximum labor rates best estimated quantities worksheet in responding to the RAMS sample task. AR, exh. 6, VMD.001_ENs – VMD, at 18. In responding to this discussion question, the record shows that VMDn made extensive changes to its labor mix and category descriptions for the RAMS sample task order, and represented that these changes would appear in a revised attachment 21. AR, exh. 9, VMD.001_VMD_EN, at 25-26. However, because VMDn submitted its previous attachment 21 with its FPR, none of these changes actually were included in its FPR.⁵

As another example, the record shows that the agency asked VMDn discussion questions relating to its proposed level of effort and labor mix in connection with performing the sustainment element of the requirement, as well as the virtual infrastructure and enterprise requirements elements of the RAMS sample task. AR, exh. 6, VMD.001_ENs – VMD, at 23-24. In response to these concerns, the record shows that VMDn made substantial changes to both its proposed level of effort, and also its proposed staffing mix, in these three areas. AR, exh. 9,

⁵ As with Pragmatics, VMDn was specifically instructed to include any changes resulting from discussions into its proposal. AR, exh. 22, 001_20130510 - NOSB FPR Letter, at 2.

VMD.001_VMD_EN, at 34-38.⁶ Although some of these changes were briefly described in narrative form in its technical proposal FPR, e.g., AR, exh. 3 VMD.041_V2 -Tech -VMD_FPR_VMD_VMD_Sub3, at 33-36, none of these changes were reflected in the attachment 21 submitted with VMDn's FPR.

In the final analysis, and as discussed above, offerors were required to include a detailed description of their proposed labor categories, level of effort, and labor mix in the attachment 21 workbook. In effect, these requirements were not simply elements of the firm's proposed cost, but also represented material elements of its proposed technical approach. As such, we have no basis to question the agency's view that evaluating VMDn's cost proposal as submitted, and simply making cost realism adjustments, would not have been appropriate since, as in the case of Pragmatics, such adjustments would have been tantamount to making changes in the firm's proposed technical solution. Since there were fundamental discrepancies between VMDn's technical proposal and its cost proposal, and since its cost proposal as submitted also reflected fundamental deficiencies in its proposed technical solution, the agency reasonably found VMDn's proposal unacceptable.⁷

In light of the foregoing, we deny VMDn's protest.

The protests are denied.

Susan A. Poling
General Counsel

⁶ For example, in the sustainment area alone, the record shows that VMDn proposed to cut its level of effort by more than [deleted] percent, and also changed its labor mix for this element of the requirement. AR, exh. 9, VMD.001_VMD_EN, at 34-35.

⁷ As a final matter, the agency was under no obligation to afford VMDn an opportunity to submit a revised cost proposal after receipt of FPRs because that would have amounted to a reopening of discussions. ERIE Strayer Co., B-406131, Feb. 21, 2012, 2012 CPD ¶ 101 at 5.