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## Decision

**Matter of:** Segovia, Inc. d/b/a Inmarsat Government

**File:** B-408376; B-408376.2

**Date:** September 3, 2013

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Stephanie A. Kreis, Esq., and Michelle Sabin, Esq., Defense Information Systems Agency, for the agency.

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### DIGEST

1. Protest that agency unequally evaluated protester's and awardee's proposals is denied where record shows that agency evaluated proposals in equal manner and consistent with solicitation evaluation criteria and that agency actions did not competitively prejudice protester.
  2. Protest regarding lack of documentation of agency's basis for eliminating technical strengths initially assigned to protester's proposal is denied where nothing in record demonstrates that agency's decision to eliminate strengths was unreasonable or contrary to solicitation's evaluation criteria.
  3. Protest that source selection decision was flawed because source selection official did not qualitatively analyze evaluation findings is denied where source selection official reasonably relied on technical evaluation team findings and made award based on highest-technically-rated, lowest-priced proposal.
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### DECISION

Segovia, Inc. d/b/a Inmarsat Government, of Herndon, Virginia, protests the award of a task order to DRS Technical Services, Inc., also of Herndon, Virginia, under request for task order proposals (RFTOP) No. CS20001, issued by the Defense

Information Systems Agency, for the lease of teleport services, transponded bandwidth, and terrestrial backbone. Inmarsat asserts that the agency's evaluation of its and DRS's proposals was unequal in a number of respects, that the agency improperly failed to document the basis for eliminating several strengths that initially were assigned to its proposal, and that the source selection decision was flawed.

We deny the protest.

## BACKGROUND

The solicitation, which the agency issued on November 28, 2012, contemplated the award of a fixed-price task order with a base period of one year and three 1-year option periods.<sup>1</sup> RFTOP at 1. The solicitation, as amended, provided that award would be made to the offeror whose proposal was determined to represent the best value to the government, considering two evaluation factors: technical/management approach and cost/price. Id. at 2-3; Contracting Officer's Statement at 3. The technical/management approach factor was stated to be more important than cost/price, and it included the following five subfactors, listed in descending order of importance: terrestrial backhaul; commercial transponded bandwidth; commercial teleport services; information assurance; and network installation and implementation support. RFTOP at 2-3.

The agency received four proposals by the solicitation's closing date, including proposals from Inmarsat and DRS. Agency Report (AR), Tab 11, Price Negotiation Memorandum (PNM), at ¶ 16.b. A cost/price evaluation team evaluated the offerors' pricing. See AR, Tab 9, Cost/Price Evaluation Report, at 13. A technical evaluation board (TEB) evaluated the proposals under the non-price factors; identified proposal strengths, weaknesses, and deficiencies; assigned initial adjectival ratings under each technical/management approach subfactor; and documented the initial evaluation results in a draft report that was designated as the "selection recommendation document" (SRD). See AR, Tab 10A, Initial SRD. The agency then conducted multiple rounds of discussions and requested and received final proposal revisions (FPR) from all four offerors. Contracting Officer's Statement at 8.

In the course of discussions and the evaluation of FPRs, the TEB revised certain evaluation findings (e.g., proposal strengths, weaknesses, and deficiencies) as well as some subfactor ratings. The TEB documented the final evaluation results in a

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<sup>1</sup> The solicitation was issued under a General Services Administration indefinite-delivery, indefinite-quantity (ID/IQ) contract vehicle known as Custom SATCOM Solutions. Contracting Officer's Statement at 4.

final SRD.<sup>2</sup> AR, Tab 10, Final SRD. The final ratings for Inmarsat’s and DRS’s proposals, together with their final evaluated prices, are shown in the table below.

	<b>Inmarsat</b>	<b>DRS</b>
<b>Subfactor 1 - Terrestrial Backhaul</b>	Good	Outstanding
<b>Subfactor 2 - Commercial Transponded Bandwidth</b>	Outstanding	Outstanding
<b>Subfactor 3 - Commercial Teleport Services</b>	Acceptable	Good
<b>Subfactor 4 - Information Assurance</b>	Marginal	Marginal
<b>Subfactor 5 - Network Installation and Implementation Support</b>	Good	Outstanding
<b>Evaluated Price</b>	<b>\$109,583,852</b>	<b>\$95,816,622</b>

Id. at 2, 25. Of the four proposals, DRS’s was deemed the highest-technically-rated and the lowest-priced. Id. at 25. For this reason, the contracting officer, who also served as the source selection authority in this procurement, determined that no tradeoff analysis was necessary and that the task order should be awarded to DRS. AR, Tab 9, PNM, at ¶ 22.<sup>3</sup> After a debriefing, Inmarsat filed a protest with our Office.<sup>4</sup>

## DISCUSSION

Inmarsat asserts that the agency evaluated its and DRS’s proposals unequally, that the agency improperly failed to document the basis for eliminating several strengths that initially were assigned to its proposal, and that the agency’s source selection decision was flawed. We have considered all of Inmarsat’s arguments and

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<sup>2</sup> During the evaluation process, the TEB also created an interim SRD. See AR, Tab 10B, Interim SRD.

<sup>3</sup> The PNM served as the source selection decision document in this procurement.

<sup>4</sup> As the value of this task order is in excess of \$10 million, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award ID/IQ contracts. 10 U.S.C. § 2304c(e)(1)(B) (2006).

conclude, based on the record, that none furnish a basis on which to sustain the protest. Inmarsat's principal arguments are discussed below.<sup>5</sup>

#### Allegations of Unequal Treatment

Inmarsat asserts that in the final SRD, the TEB unfairly consolidated multiple strengths for Inmarsat's proposal but individually addressed similar strengths for DRS's proposal. Comments at 22-23, 26-27; Supp. Comments at 13-14, 16-17; Post-Hearing Comments at 6-8. As relevant to this claim, under subfactor 1, terrestrial backhaul, Inmarsat's proposal received a rating of good, with no weaknesses or deficiencies and two strengths, while DRS's proposal received a rating of outstanding, with no weaknesses or deficiencies and five strengths. AR, Tab 10, Final SRD, at 7-8, 14-15. One of the strengths assigned to Inmarsat's proposal was:

The proposed transport network [is] comprised of dedicated leased-line infrastructure . . . with reserved capacity approximately [DELETED] beyond the minimum required. The proposed terrestrial backhaul solution factor provides additional value to the Government in the form of a solution for the stated factor stipulations of minimized latency and jitter (PWS [performance work statement] 5.3).

Id. at 15. Two of the strengths assigned to DRS's proposal were:

The proposed transport network is comprised of dedicated leased-line infrastructure offering consistent sustained availabilities, pre-defined and consistent latency, and jitter under [DELETED] for all circuits . . . . These terrestrial backhaul solution factors . . . provide additional value to the government in the form of a solution for the stated factor

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<sup>5</sup> In its initial protest, Inmarsat alleged that the agency unreasonably evaluated its and DRS's proposals in various ways and that the agency should have excluded DRS from the competition based on alleged biased ground rules and unequal access to information organizational conflicts of interest (OCI). Protest at 9-27. In its comments on the agency report, Inmarsat abandoned its original challenges to the agency's evaluation and abandoned its allegation of a biased ground rules OCI. However, Inmarsat in its comments maintained its allegation of an unequal access to information OCI and raised supplemental allegations regarding the evaluation of proposals. Comments at 3-37. After reviewing the agency's response to Inmarsat's comments and supplemental allegations, our Office conducted a two-day hearing to further develop the record. Following the hearing, Inmarsat withdrew its allegation of an unequal access to information OCI. Post-Hearing Comments at 2.

stipulations of minimized latency and jitter, and demonstration of industry best practice design (PWS 5.3).

An additional [DELETED] beyond the minimum required terrestrial bandwidth is guaranteed on all terrestrial links to ensure available capacity for DCN traffic . . . . This terrestrial backhaul guaranteed bandwidth solution factor reduces risk of unsuccessful performance in allowing for this additional margin beyond stated minimums (PWS 5.3) which will be better able to handle traffic surges, and provides additional value to the government in the form [of] built-in capability for capacity growth (PWS 5.3).

Id. at 8.

Inmarsat argues that these strength narratives reflect that the agency consolidated two separate strengths for its proposal--one related to a dedicated leased-line infrastructure and one related to extra capacity bandwidth--into one strength, but assigned DRS's proposal two separate strengths for similar proposal features. Inmarsat Comments at 22-23; Supp. Comments at 13-14; Post-Hearing Comments at 6-8.

The task order competition here was conducted among ID/IQ contract holders pursuant to Federal Acquisition Regulation Part 16. Our Office will review evaluation challenges to these procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. Bay Area Travel, Inc., et al., B-400442 et al., Nov. 5, 2008, 2009 CPD ¶ 65 at 9; Triple Canopy, Inc., B-310566.4, Oct. 30, 2008, 2008 CPD ¶ 207 at 5-7. A protester's mere disagreement with an agency's judgment is insufficient to establish that the agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

In response to Inmarsat's allegation, the agency contends that the consolidated discussion of Inmarsat's dedicated leased-line infrastructure and extra capacity bandwidth in one strength did not affect Inmarsat's subfactor 1 rating because both concepts expressly were recognized in the strength narrative and because the TEB did not assign subfactor ratings based on a mechanical tally of strengths, but, rather, on an evaluation of a proposal's technical detail and merit. Supp. AR at 5. Additionally, during the hearing conducted by our Office in this protest, the technical lead for one of the two geographically distinct teams that comprised the TEB testified that while consideration of proposal strengths "played a part" in the TEB's determination of an offeror's subfactor ratings, ultimately "[t]he ratings were the result of looking at the technical documentation and evaluating the documentation based on its content." Hearing Transcript (Tr.) at 143, 147.

The record supports the agency's position in that there is no indication that the TEB tabulated the number of strengths under the subfactors or considered only the number of strengths when assigning the subfactor ratings. Further, the record shows that the agency consolidated strengths for DRS as well as for Inmarsat. Specifically, in the first strength assigned to DRS's proposal under subfactor 1 (which is quoted above), the narrative addresses both DRS's proposed dedicated leased-line infrastructure and its demonstration of "industry best-practice design" in connection with terrestrial backhaul. AR, Tab 10, Final SRD, at 8. Inmarsat's proposal received a stand-alone strength for "demonstrating competency in and use of industry best-practices and backhaul optimization." Id. at 15. Thus, the record reflects that the agency consolidated multiple proposal features into individual strengths for both offerors. For these reasons, we see no basis to sustain Inmarsat's claim that the agency treated Inmarsat and DRS unequally by consolidating proposal strengths under subfactor 1.

As a separate claim of unequal treatment under subfactor 1, Inmarsat complains that the agency unequally evaluated its and DRS's proposals with respect to the firms' approaches to limiting "jitter." Comments at 23; Supp. Comments at 14. In the context of this procurement, jitter relates to "a delay for the choppiness that one would see in the data transmission." Tr. at 153. Inmarsat asserts that DRS unfairly "received credit for limiting 'jitter under [DELETED]' while Inmarsat's specific jitter limits were not credited with a Strength, despite the fact that Inmarsat also offered to limit jitter to [DELETED]." Post-Hearing Comments at 8.

The record reflects that Inmarsat proposed to limit jitter to [DELETED]. AR, Tab 3, Inmarsat Proposal, at 68. DRS's proposal referenced jitter limits of both "[DELETED]." AR, Tab 4, DRS Proposal, at 44. One of the proposal features discussed in the first strength assigned to Inmarsat's proposal under subfactor 1 was "minimized latency and jitter." AR, Tab 10, Final SRD, at 15. One of the proposal features discussed in the first strength assigned to DRS's proposal under subfactor 1 was "jitter under [DELETED]." Id. Given that both Inmarsat's and DRS's proposals received credit for minimized jitter, and given that DRS apparently proposed to limit jitter to a greater degree than did Inmarsat ([DELETED] of jitter for DRS versus [DELETED] for Inmarsat), we see no merit in Inmarsat's claim that the agency treated Inmarsat and DRS unequally in this area.

Inmarsat also asserts that the agency unequally evaluated its and DRS's proposals under subfactor 2, commercial transponded bandwidth. Specifically, Inmarsat argues that the agency consolidated two Inmarsat strengths into a single strength narrative; assigned DRS, but not Inmarsat, a strength based on the number of satellites proposed [DELETED]; and included a longer narrative to describe a strength assigned to DRS's proposal than it used to describe a strength assigned to Inmarsat for a similar proposal feature. Comments at 24-27; Supp. Comments at 15-18; Post-Hearing Comments at 15-17.

Under subfactor 2, which was the second most important of the five technical/management approach subfactors, both Inmarsat's and DRS's proposals received ratings of outstanding, with no weaknesses or deficiencies and three strengths. AR, Tab 10, Final SRD, at 9, 15. Thus, even assuming for the sake of argument that Inmarsat's allegations of unequal treatment under subfactor 2 have merit, we fail to see how the alleged actions may have adversely affected Inmarsat's competitive standing. As discussed in greater detail below, in this procurement, the contracting officer relied only on the offerors' subfactor ratings to determine that DRS's proposal was the highest-technically-rated proposal, and she made her award decision based on DRS's superior technical ratings and low price. See AR, Tab 11, PNM, ¶ 22. Prejudice is an essential element of every viable protest; we will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions. Serco, Inc., B-406061.1, B-406061.2, Feb. 1, 2012, 2012 CPD ¶ 61 at 12. Here, there is no basis in the record to conclude that Inmarsat's proposal would have been selected for award had it received additional strengths under subfactor 2.

As a final example of Inmarsat's allegations of unequal treatment, the firm claims that the agency unfairly assigned a strength to DRS's proposal under subfactor 5, network installation and implementation support, related to risk mitigation.<sup>6</sup> Comments at 30; Supp. Comments at 18-20; Post-Hearing Comments at 20-24. Inmarsat asserts that unequal treatment occurred because the agency did not assign a strength to its proposal for risk mitigation, yet, according to Inmarsat, its proposal included a much more detailed discussion of risk mitigation than did DRS's proposal. Comments at 30; Supp. Comments at 20; Post-Hearing Comments.

Under subfactor 5, which was the least important of the five technical/management approach subfactors, Inmarsat's proposal received a rating of good, with no weaknesses or deficiencies and one strength, while DRS's proposal received a rating of outstanding, with no weaknesses or deficiencies and four strengths. AR, Tab 10 Final SRD, at 14, 20. Additionally, and as discussed above, DRS's proposal received superior ratings to Inmarsat's proposal under both subfactors 1 and 3, both of which were more important than subfactor 5.

Thus, even assuming for the sake of argument that Inmarsat's allegation of unequal treatment under subfactor 5 has merit and that Inmarsat's proposal rating under subfactor 5 was increased to outstanding (*i.e.*, a rating equal to DRS's proposal rating under subfactor 5), we fail to see how Inmarsat would have been competitively prejudiced because under this scenario DRS's proposal still would have had higher ratings under two more important subfactors and equal ratings for

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<sup>6</sup> Inmarsat does not allege that the agency unequally evaluated proposals under subfactor 3, commercial teleport services, or subfactor 4, information assurance.

all other subfactors. In sum, we find that none of Inmarsat's allegations of unequal treatment furnish a basis on which to sustain the protest.

#### Allegations Regarding Elimination of Inmarsat Proposal Strengths

Inmarsat asserts that the agency failed to document the basis for removing several strengths that initially were assigned to its proposal under subfactors 1 and 3. Inmarsat Comments at 31-35; Inmarsat Supp. Comments at 20-24; Inmarsat Post-Hearing Comments at 12-14, 19-20. As relevant to this claim, in the interim SRD, Inmarsat's proposal received two strengths under subfactor 1 related to Inmarsat's approach to network center interconnection and equipment inoperability. AR, Tab 10B, Interim SRD, at 47. Neither of these strengths appears in the final SRD. AR, Tab 10, Final SRD, at 15. The basis for their omission from the final SRD is not documented in the contemporaneous record.

In response to this claim, the TEB technical lead, during the hearing at our Office, described the initial and interim SRDs as draft documents that evolved as negotiations with the offerors occurred and as the TEB conferred among themselves and reached consensus on the SRD content. Tr. at 27-30, 96. He testified that this process ultimately led to the creation of the final SRD that was presented to the contracting officer. Id. at 96. He testified that although he could not recall a specific discussion among the TEB regarding the two strengths at issue here, the reason for their elimination from the final SRD was that during the evaluation process the TEB collectively determined that they pertained to proposal features that merely met, rather than exceeded, PWS requirements. See Tr. at 86, 88, 103-04; see also Supp. AR at 10.

Here, it is true that neither the contemporaneous record nor the testimony elicited at the hearing provides the precise reason that the TEB decided to eliminate the strengths in the final SRD. However, while Inmarsat argues that the lack of documentation alone is a basis to sustain its protest, Inmarsat does not advance any discernable or persuasive reasons as to why the TEB's determination to eliminate the strengths was unreasonable. In other words, Inmarsat has not explained, and it is not clear from the record, how or why the TEB's decision to eliminate these strengths went beyond the bounds of the TEB's discretion to decide what proposal features did or did not qualify as strengths under the solicitation's evaluation criteria.

In support of its argument on this ground of protest, Inmarsat repeatedly cites our decisions in Systems Research and Applications Corp.; Booz Allen Hamilton, Inc., B-299818 et al., Sept. 6, 2007, 2008 CPD ¶ 28 and Colonial Storage Co.; Paxton Van Lines, Inc., B-253501 et al., Oct. 19, 1993, 93-2 CPD ¶ 234. However, in Systems Research and Applications Corp.; Booz Allen Hamilton, Inc., unlike here, the eliminated strengths were numerous, highly detailed, and seemingly warranted based on specific proposal content. Systems Research and Applications Corp.;



Booz Allen Hamilton, Inc., *supra*, at 12-21. Similarly, in Colonial Storage Co.; Paxton Van Lines, Inc., unlike here, it was apparent from the record that the initial positive evaluation comments were valid. Colonial Storage Co.; Paxton Van Lines, Inc., *supra*, at 14. In conclusion, this ground of protest is denied.<sup>7</sup>

#### Allegations Regarding Source Selection Decision

Finally, Inmarsat asserts that the source selection decision was flawed because there is evidence that the TEB did not comparatively analyze the proposals and that the contracting officer did not qualitatively analyze the proposals. Comments at 37; Supp. Comments at 25; Post-Hearing Comments at 24-31.

We agree with Inmarsat that there is nothing to show that the TEB comparatively analyzed the proposals or that the contracting officer undertook a separate qualitative analysis of the technical evaluation findings. From our review of the record, it appears that the contracting officer made the source selection decision based only on her determination that the ratings that the TEB assigned to the proposals under each of the technical/management approach subfactors reflected that DRS's proposal was technically superior to those of the other offerors and her finding that DRS submitted the lowest-priced proposal. See AR, Tab 11, PNM, ¶ 22; Tr. at 617-18, 630-31, 641, 646. However, a source selection official, such as the contracting officer here, may rely on reports provided by technical evaluators. See General Dynamics C4 Sys., Inc., B-406965, B-406965.2, Oct. 9, 2012, 2012 CPD ¶ 285; Diemaster Tool, Inc., B-241239, B-241239.2, Jan. 30, 1991, 91-1 CPD ¶ 89 at 6. Further, and as discussed above, none of Inmarsat's arguments regarding the TEB's evaluation leads us to conclude that there is a basis to disturb the TEB's final subfactor ratings or to disturb the technical findings underlying those ratings.

Thus, because DRS's proposal received higher ratings than Inmarsat's proposal in three of the five subfactors (including subfactor 1, the most important subfactor), and ratings equal to Inmarsat's proposal ratings under the other two subfactors, and because we see no basis to question those ratings, we find the contracting officer's determination that DRS's proposal was the highest-technically-rated proposal to be

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<sup>7</sup> Inmarsat raises an identical challenge with respect to two strengths that appear in the initial SRD under subfactor 3, but were eliminated in the interim and final SRDs. Inmarsat Comments at 34-35; Inmarsat Supp. Comments at 23-24; Inmarsat Post-Hearing Comments at 19-20. For the reasons discussed above, we find no merit to this claim. Finally, we note that notwithstanding the elimination of the strengths in question, Inmarsat's proposal rating under subfactor 1 was elevated from marginal in the interim SRD to good in the final SRD, and its rating under subfactor 3 was good in both the initial and final SRDs. AR, Tab 10A, Initial SRD at 1; AR, Tab 10B, Interim SRD, at 5; AR, Tab 10, Final SRD, at 2.

reasonable. Where, as here, the highest-technically-rated, lowest-priced proposal is selected for award, a price/technical tradeoff is not required. See Alliance Tech. Servs., Inc., B-311329, B-311329.2, May 30, 2008 CPD ¶ 108 at 3; Gentex Corp.--W. Operations, B-291793 et al., Mar. 25, 2003, 2003 CPD ¶ 66 at 29. For these reasons, we see no merit in Inmarsat's challenge to the source selection decision.

The protest is denied.

Susan A. Poling  
General Counsel