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**Comptroller General
of the United States**

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

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Decision

Matter of: AIS Engineering, Inc.

File: B-410246; B-410246.2

Date: November 21, 2014

Jonathan T. Williams, Esq., Alexander O. Levine, Esq., and Kathryn V. Flood, Esq., PiliroMazza PLLC, for the protester.

John E. Jensen, Esq., Alexander B. Ginsberg, Esq., Travis L. Mullaney, Esq., and Meghan d. Doherty, Esq., Pillsbury Winthrop Shaw Pittman LLP, for UltiSat, Inc., an intervenor.

Ronald D. Sullivan, Esq., Vincent H. Buonocore, Esq., and Frank V. DiNicola, Esq., Department of Veterans Affairs, for the agency.

Mary G. Curcio, Esq., and David A. Ashen, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation required submission of both an unsanitized and a sanitized (with identifying information deleted) version of proposals, protest that agency should have rejected awardee's proposal for failing to submit unsanitized version at the time initial proposals were due is denied where awardee submitted a sanitized version which was, as anticipated by the agency, used for evaluation purposes, and submitted an unsanitized version with its final proposal revision.

DECISION

AIS Engineering, Inc., of Silver Spring, Maryland, protests the Department of Veterans Affairs' (VA) decision to issue a task order to UltiSat, Inc., of Gaithersburg, Maryland, under request for proposals (RFP) No. VA118A-14-R-0092, for support services for VA satellite communication infrastructure. AIS asserts that UltiSat failed to submit a complete proposal, and that the agency failed to consider whether UltiSat's proposed price was unbalanced.

We deny the protest.

The solicitation provided for the issuance of a task order, under a General Services Administration (GSA) Custom SATCOM Solutions small business indefinite-delivery/indefinite-quantity, multiple-award contract, to operate and maintain the

current VA Enterprise Satellite Communications infrastructure for a one-year base period with 4 one-year option periods. The task order was to be issued to the offeror that submitted the lowest-priced, technically-acceptable offer. RFP at 82.

Following the receipt and evaluation of proposals, discussions, and the receipt and evaluation of final proposal revisions (FPR), the agency issued the task order to UltiSat at a price of \$21,018,285.01. Source Selection Decision Document (SSDD) at 3. (AIS proposed the next lowest price of \$21,886,087.00). Id.

AIS thereupon filed this protest with our Office challenging the acceptability and the evaluation of UltiSat's proposal. We have fully considered all of AIS's arguments and, although we do not address them all, we find that none provides a basis on which to sustain the protest.

Incomplete Proposal

AIS protests that the agency should have rejected UltiSat's proposal because it was not complete when it was submitted. In this regard, as relevant to this protest, the agency required offerors to submit a sanitized and an unsanitized version of their proposals. RFP at 80. The sanitized version, in which offerors' identifying information was to be redacted, RFP at 73, was provided to the evaluators and the source selection authority (SSA) so that the evaluation could be conducted and the award decision made with the offerors' identities concealed. Supplemental Agency Report (SAR), Sept. 16, 2014, at 2. The unsanitized version, with the identifying information included, was not provided to the SSA until after the award decision was made. Id.

At the time it submitted its initial proposal, UltiSat submitted its sanitized, but not its unsanitized proposal. Id. During discussions the agency advised UltiSat that its unsanitized proposal was missing, and UltiSat submitted it with its FPR. SAR, Oct. 8, 2014, at 1.

AIS asserts that because UltiSat did not submit the unsanitized version of its proposal when it initially submitted its sanitized proposal, it should have been eliminated from the competition. We disagree.

The sanitized version of the proposal that UltiSat submitted was, consistent with the agency evaluation approach, provided to the evaluators, and contained the information necessary for the agency to evaluate it. Further, to the extent that the initial proposal could be considered unacceptable because the unsanitized version had not been submitted, the agency notified UltiSat of this deficiency during discussions, and UltiSat corrected it by providing the unsanitized version of the proposal with its FPR. Under these circumstances, the agency did not act improperly in considering UltiSat's proposal as revised for award.

Unbalanced Pricing

The solicitation required offerors to provide pricing for a base period and four option periods for both base contract line items and optional contract line items. AIS and UltiSat proposed the following prices:

Base Contract Line Items

	Base Period	Option Period 1	Option Period 2	Option Period 3	Option Period 4	Total
UltiSat	\$3,960,323.94	\$2,984,665.50	\$2,785,092.46	\$2,769,046.01	\$2,753,106.54	\$15,252,224.45
AIS	\$3,695,019.00	\$3,357,692.00	\$3,357,692.00	\$3,012,692.00	\$2,892,692.00	\$16,315,787.00

Optional Contract Line Items

	Base Period	Option Period 1	Option Period 2	Option Period 3	Option Period 4	Total
UltiSat	\$ 860,328.32	\$1,016,290.12	\$1,144,904.06	\$1,295,106.58	\$1,449,431.48	\$5,766,060.56
AIS	\$1,009,860.00	\$1,044,860.00	\$1,151,860.00	\$1,151,860.00	\$1,208,860.00	\$5,570,300.00

Total of Base and Optional Contract Line Items

	Base Period	Option Period 1	Option Period 2	Option Period 3	Option Period 4	Total
UltiSat	\$4,820,652.26	\$4,000,945.62	\$3,929,996.52	\$4,064,152.59	\$4,202,538.02	\$21,018,285.01
AIS	\$4,704,879.00	\$4,402,552.00	\$4,509,552.00	\$4,167,552.00	\$4,101,552.00	\$21,886,087.00

Price Evaluation at 2.

AIS asserts that the agency should have considered whether UltiSat's proposed prices were unbalanced because of unexplained pricing fluctuations between the base and option periods. The agency responds that UltiSat's proposed pricing was not unbalanced.

Unbalanced pricing exists where the prices of one or more line items are significantly overstated, despite an acceptable total evaluated price (typically achieved through understating one or more other line items). MSC Industrial Direct Company, Inc., B-409585 et al., June 12, 2014, 2014 CPD ¶ 175 at 6-7; General Dynamics--Ordnance & Tactical Sys., B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 5. To prevail on an allegation of unbalanced pricing, a protester must show that one or more prices are overstated; that is, it is insufficient for a protester to show simply that some line item prices are understated. See MSC Industrial Direct Company, Inc., supra; Academy Facilities Mgmt.--Advisory Opinion, B-401094.3, May 21, 2009, 2009 CPD ¶ 139 at 15. This is so because low prices (even below-cost prices) are not improper and do not themselves establish (or create the risk inherent in) unbalanced pricing. Id.

AIS has not furnished any information which would indicate that UltiSat's price proposal was unbalanced. In this regard, the basic premise of AIS's argument is that UltiSat's proposed total pricing for the basic and optional items fluctuates--goes up and down--between the base and option periods. AIS, however, has not asserted that UltiSat overstated or understated its overall prices for either the base or the option periods.¹ Further, the fluctuations are only apparent when the total prices for the basic and optional items are combined. AIS itself, however, proposed a total price for the basic and optional items that fluctuates--goes up and down--between the base and option periods. In these circumstances, we find AIS's argument in this regard to be without merit.²

The protest is denied.

Susan A. Poling
General Counsel

¹AIS questions why the agency determined that for the first responder line item AIS's **[DELETED]** and offeror C's **[DELETED]** proposed prices for the base and four option years were too low rather than that UltiSat's **[DELETED]** and offeror D's **[DELETED]** prices were too high. AIS, however, has not furnished any information that would demonstrate that UltiSat's and offeror D's prices were too high for the service to be performed.

²AIS also protests that UltiSat's proposal should have been rejected because it did not represent itself as a small business in its proposal. We will not consider this issue as the Small Business Administration, which has exclusive responsibility for determining small business size status, issued a decision on September 24, 2014, finding that UltiSat is an eligible small business for this competition. Size Determination Case No. 2-2014-137; see 4 C.F.R. § 21.5(b) (2014).