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Decision

Matter of: Manhattan Telecommunications Corporation

File: B-418818

Date: September 17, 2020

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Christopher Alwood, Esq., and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's evaluation of protester's proposal under the technical/management approach evaluation factor is denied where the evaluation was reasonable and consistent with the solicitation.

DECISION

Manhattan Telecommunications Corporation (MetTel), a small business of New York, New York, protests the issuance of a task order to Verizon Business Network Services, Inc., of Ashburn, Virginia under request for proposals (RFP) No. 821913732, issued by the Defense Information Systems Agency (DISA), for network data services in support of the Marine Forces Reserve (MARFORRES) network. The protester challenges the agency's evaluation of its technical proposal and alternatively argues that the solicitation contained a latent ambiguity.

We deny the protest.

BACKGROUND

On September 9, 2019, the agency issued the RFP to firms holding contracts under the General Services Administration's (GSA's) Enterprise Infrastructure Solutions (EIS) multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contract, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 16.5. Agency Report (AR), Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 4; AR, Tab 1, RFP at 2. The solicitation sought proposals to provide network data services in support

of the MARFORRES network. AR, Tab 1, RFP, Performance Work Statement (PWS) at 2.¹ The solicitation contemplated the award of a single fixed-price task order with economic price adjustment for a 1-year base period, eleven 1-year option periods, and a 4-month option period. RFP at 2.

The RFP provided for award on a lowest-priced, technically acceptable basis, considering price and a technical/management approach evaluation factor. *Id.* at 5. The technical/management approach factor consisted of three subfactors: (1) compliance with PWS ¶¶ 6.1.5(G), (H), and (J); (2) service level agreement report; and, (3) agency level transition plan. *Id.* The solicitation stated that in order to be found technically acceptable, a proposal would need to be rated technically acceptable under each technical/management approach subfactor. *Id.*

As relevant here, the agency was to evaluate proposals under the first subfactor (compliance with PWS ¶¶ 6.1.5(G), (H), and (J)) to assess whether each offeror had demonstrated its ability to provide certain mandatory network capabilities. *Id.* Specifically, the solicitation provided that in order to be rated acceptable, the offeror was required to demonstrate its “ability to support the standardized modes of Quality of Service” listed in PWS ¶ 6.1.5(G) across the subset of three access networks listed in PWS ¶ 6.1.5(H).² *Id.* The offeror was also required to demonstrate its ability to perform the requirements of PWS ¶ 6.1.5(J), namely, provide “service that isolates the exchange of traffic and routing information to only those sites that are authenticated and authorized.” *Id.*; PWS at 6. The RFP also required the offeror to demonstrate its ability to provide multi-layered network security architecture. *Id.*

¹ The agency amended the solicitation eight times. All citations to the RFP and PWS are to the conformed versions provided by the agency at Tab 1 of the Agency Report.

² The quality of service modes listed in PWS ¶ 6.1.5(G) were: (1) best effort; (2) aggregate customer edge interface level; (3) site-to-site level; (4) integrated services signaled; and, (5) differentiated services marked. PWS at 5. The subset of access networks required by PWS ¶ 6.1.5(H) were: (1) 802.1p prioritized Ethernet; (2) multiprotocol label switching (MPLS) based access; and (3) multilink multiclass point-to-point protocol. *Id.* at 5 6.

On or before the March 4, 2020 closing date, the agency received proposals from six offerors, including MetTel and Verizon. See AR, Tab 5, Unsuccessful Offeror Notice at 1. The agency evaluated MetTel and Verizon’s final proposals as follows:

	MetTel	Verizon
Technical/Management Approach		
Compliance with PWS ¶¶ 6.1.5(G), (H), and (J)	Unacceptable	Acceptable
Service Level Agreement Report	Acceptable	Acceptable
Agency Level Transition Plan	Acceptable	Acceptable
Total Price	\$19,092,350	\$24,894,954

AR, Tab 3, Selection Recommendation Document (SRD) at 4.

Under the compliance with PWS ¶¶ 6.1.5(G), (H), and (J) subfactor, the agency evaluated MetTel’s proposal as unacceptable because it did not “demonstrate an adequate approach and understanding of the requirements of the [s]ubfactor.” *Id.* at 5. Specifically, the evaluators found that MetTel’s proposal had merely restated the RFP’s requirement to support the standardized quality of service modes listed in PWS ¶ 6.1.5(G) across the subset of access networks listed in PWS ¶ 6.1.5(H) instead of demonstrating how MetTel would meet this requirement.³ *Id.* at 5-6.

The contracting officer agreed with the evaluators and concluded that MetTel had failed to demonstrate its ability to support the requirements of PWS ¶ 6.1.5(G) and (H) and was therefore unacceptable. AR, Tab 4, Price Negotiation Memorandum (PNM) at 8. The contracting officer also agreed with the evaluators’ conclusion that Verizon, the second lowest-priced offeror, was technically acceptable. *Id.* The agency subsequently notified MetTel of the award to Verizon. This protest followed.⁴

³ Under this subfactor, the agency found that MetTel’s proposal met the requirements of PWS ¶ 6.1.5(J) regarding isolation of traffic and routing service, noting that the protester would provide this through “the implementation of [DELETED].” *Id.* at 6.

⁴ The task order at issue is valued in excess of \$10 million, and was placed under an IDIQ contract established by GSA. Accordingly, our Office has jurisdiction to consider MetTel’s protest. 41 U.S.C. § 4106(f)(1)(B).

DISCUSSION

MetTel challenges various aspects of the agency's evaluation of its proposal as unacceptable under the compliance with PWS ¶¶ 6.1.5(G), (H), and (J) subfactor of the technical/management approach factor. Specifically, MetTel argues that the agency unreasonably found that MetTel's proposal failed to demonstrate how MetTel would meet the RFP's requirement to support the standardized quality of service modes listed in PWS ¶ 6.1.5(G) across the access networks listed in PWS ¶ 6.1.5(H). Protest at 6-10; Comments at 6-14. For the reasons that follow, we conclude that the protester's arguments provide no basis to sustain the protest.⁵

First, MetTel argues that it met the PWS's requirements based on the fact that it had been awarded one of the EIS IDIQ contracts on which the solicitation was based and no further demonstration of its ability to meet the specific PWS requirements was required. Protest at 6-10; Comments at 10-14. In this regard, MetTel contends that PWS ¶¶ 6.1.5(G) and (H) set forth the same requirements as those listed in the EIS IDIQ solicitation and notes that the RFP included the instruction that proposals "should be prepared in accordance with [] the EIS contract." Protest at 6-7. Accordingly, MetTel argues that the agency should have accepted its award under the EIS IDIQ solicitation as an adequate demonstration of its capability to satisfy these requirements.⁶ Protest at 9-10.

The agency responds that MetTel's argument is based on an erroneous interpretation of the solicitation and that its evaluation was reasonable and in accordance with the solicitation. COS/MOL at 10-14. In this regard, the agency argues that the single statement in the RFP that proposals should be prepared in accordance with the EIS contract did not mean the requirements in the two solicitations were identical, noting that the PWS at issue here provided 26 pages of requirements specific to this procurement. *Id.* at 10. The agency also responds that each procurement stands on its own and DISA is not bound by GSA's practices and evaluation from a prior procurement. *Id.* at 13.

Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives

⁵ The protester raises other collateral arguments. While our decision does not address each of the protester's allegations and variations thereof, we have reviewed them all and find that none provides a basis to sustain the protest.

⁶ MetTel alternatively contends that if the agency's interpretation of the solicitation's requirements regarding quality of service modes are reasonable, it represents a latent ambiguity. Protest at 9-10; Comments at 10-13. An ambiguity exists where two or more reasonable interpretations of the terms or specifications of the solutions are possible. *FEI Systems*, B-414852.2, Nov. 17, 2017, 2017 CPD ¶ 349 at 4. This argument does not provide a basis to sustain a protest because, as we discuss below, MetTel does not put forth a reasonable interpretation of the solicitation language governing the evaluation of the quality of service modes requirements.

effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *FEI Systems*, B-414852.2, Nov. 17, 2017, 2017 CPD ¶ 349 at 4. Where a dispute exists as to a solicitation's actual requirements, we will first examine the plain language of the solicitation. *ZolonTech, Inc.*, B-418213, B-418213.2, Jan. 23, 2020, 2020 CPD ¶ 57 at 8.

Here, we conclude that MetTel's interpretation of the RFP is not reasonable. While the protester makes much of the fact that the solicitation expressly required offerors to prepare their proposals in accordance with the EIS contract, the RFP specifically notified offerors that failure to demonstrate their ability to support the required modes of quality of service would be found technically unacceptable. RFP at 5. Further, the PWS provided that the solicitation was for an "auxiliary tasking" to the established EIS IDIQ contract that contained "Marine specific requirements." PWS at 2.

The plain language of these provisions, when read in light of the solicitation as a whole, is not susceptible to the reading advanced by the protester. Under the protester's interpretation--that a firm's status as an EIS contract holder automatically demonstrates compliance with the requirements of PWS ¶¶ 6.1.5(G) and (H)--the agency would have no reason to conduct a substantive evaluation of any potential offeror's proposal under portions of the compliance with PWS ¶¶ 6.1.5(G), (H), and (J) subfactor. The protester does not provide a reasonable explanation as to why the agency would request any written proposal demonstrating an ability to support specified modes of quality of service in a competition limited to EIS IDIQ contract holders if it intended to be satisfied by the fact that an offeror holds an EIS IDIQ contract. Accordingly, the protester's argument the agency should have accepted its award under the EIS IDIQ solicitation as an adequate demonstration of its capability to perform the PWS requirements does not demonstrate that the agency's evaluation was unreasonable.⁷

Alternatively, MetTel argues that even if the agency's interpretation of the solicitation is reasonable, it still unreasonably found that MetTel's proposal failed to demonstrate how

⁷ MetTel also challenges the agency's evaluation on the basis that the content of MetTel's proposal demonstrating its ability to support the standardized quality of service modes listed in PWS ¶ 6.1.5(G) across the access networks listed in PWS ¶ 6.1.5(H) included the same information as its successful proposal to GSA in the EIS IDIQ procurement. Protest at 7-8. We find this argument unpersuasive. As noted above, this task order solicitation was an "auxiliary tasking" that was only issued to firms already holding EIS IDIQ contracts. See RFP at 1; see also PWS at 2. Our Office has consistently noted that each procurement stands alone, GSA's actions in another procurement are not relevant to our consideration of the agency's actions here. See, e.g., *Sayers & Assocs. Corp.*, B-418374, Mar. 30, 2020, 2020 CPD ¶ 115 at 5 n.9; see also *Connectec Co., Inc.*, B-310460, Nov. 27, 2007, 2007 CPD ¶ 211 at 3 (finding that even if a solicitation used the same evaluation scheme as a prior procurement, a protester cannot rely on past practices to excuse its failure to satisfy the requirements of a present solicitation).

MetTel would meet the RFP's requirement to support the standardized quality of service modes listed in PWS ¶ 6.1.5(G) across the access networks listed in PWS ¶ 6.1.5(H). Comments at 6-10. Specifically, MetTel contends that the agency's evaluation constituted an "incomplete reading" of the firm's proposal which failed to give MetTel credit for segments of its proposal that addressed the relevant solicitation requirements. *Id.*

The agency responds that its evaluation of MetTel's proposal was reasonable and in accordance with the terms of the solicitation. COS/MOL at 11-14. The agency maintains that the only discussion in MetTel's proposal regarding PWS ¶ 6.1.5(G) and PWS ¶ 6.1.5(H) were restatements of the PWS requirements that failed to demonstrate MetTel's ability to meet those requirements. COS/MOL at 11-12.

In reviewing protests of an agency's evaluation in a task order competition, our Office will not reevaluate proposals, nor substitute our judgement for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. Rather, we will review the record to determine if the evaluation was reasonable, consistent with the stated evaluation criteria, and with applicable procurement statutes and regulations. *Computer World Servs. Corp.*, B-410513, B-410513.2, Dec. 31, 2014, 2015 CPD ¶ 21 at 6. Offerors are responsible for submitting a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation and allows for meaningful review by the procuring agency. *KeyW Corp.*, B-417774, B-417774.2, Oct. 4, 2019, 2019 CPD ¶ 353 at 4. An offeror's disagreement with the agency's judgement, without more, is insufficient to establish that the agency acted unreasonably. *Id.*

Here, the RFP provided that in order to be rated acceptable, the offeror was required to demonstrate its ability to support the standardized quality of service modes listed in PWS ¶ 6.1.5(G) across the three subset of access networks listed in PWS ¶ 6.1.5(H). RFP at 5. As noted above, the quality of service modes were: (1) best effort; (2) aggregate customer edge interface level; (3) site-to-site level; (4) integrated services signaled; and, (5) differentiated services marked. PWS at 5. The subset of access networks required by PWS ¶ 6.1.5(H) were: (1) 802.1p prioritized Ethernet; (2) multiprotocol label switching (MPLS) based access; and (3) multilink multiclass point-to-point protocol. *Id.* at 5-6.

MetTel's proposal states three separate times, without further elaboration, that MetTel supports the required standardized quality of service modes and that its process of supporting quality of service works across the three required access networks.⁸ AR,

⁸ For example, MetTel states on page four of its proposal: "MetTel supports [quality of service] across multiple standardized modes, including Best effort, Aggregate CE interface ("hose" level), site-to-site level ("pipe" level), [integrated services] RSVP signaled, and [differentiated services] marked. Our process of supporting [quality of service] works across a subset of the AAs networks including 802.1p Prioritized Ethernet, MPLS-based access, and Multilink Multiclass PPP. . . ." *Id.* at 4.

Tab 2, MetTel Technical Proposal at viii, 4, 14. Also, section 2.1 of MetTel's proposal, including the second paragraph referenced by the protester, discusses the technical capabilities of its proposed network. *Id.* at 3-4. However, our review of MetTel's proposal did not reveal any discussion of how MetTel would, through its stated technical capabilities or otherwise, support the required standardized modes of quality of service.

On this record, we find no basis to question the agency's assessment that MetTel's proposal failed to demonstrate how MetTel would support the solicitation's requirement for standardized modes of quality service across the access networks listed in the PWS. The RFP clearly indicated that an offeror that did not demonstrate its ability to support the required modes of quality of service would not be found technically acceptable. RFP at 5. In short, in our view, the agency reasonably concluded that MetTel's proposal failed to demonstrate how MetTel would support the required modes of quality of service. The protester's disagreement with the agency's judgement does not establish that the evaluation was unreasonable.⁹ *KeyW Corp., supra.*

The protest is denied.

Thomas H. Armstrong
General Counsel

⁹ The protester also argues that the agency's failure to specifically discuss portions of MetTel's proposal that it contends addresses PWS ¶¶ 6.1.5(G) and (H) in the evaluation record, including the second paragraph of section 2.1, supports MetTel's argument that the agency "overlooked" or ignored relevant portions of the firm's proposal. See Comments at 3-6. However, the record reflects the agency's consideration of the second paragraph of section 2.1. Specifically, in its evaluation, the agency found that MetTel met the requirement to perform isolation traffic and routing service that is only shared with authorized cites, noting that the firm would provide this through "the implementation of [DELETED]." AR, Tab 3 SRD at 6. The basis for this aspect of the agency's evaluation is only found in the second paragraph of section 2.1 of MetTel's proposal. As a result, we conclude the agency did analyze this portion of MetTel's proposal. The protester's disagreement with the agency's judgment of the relevance of the information in specific portions of its proposal, without more, does not establish that the evaluation was unreasonable. *KeyW Corp., supra.*