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# Decision

**Matter of:** Defense Solutions Group, LLC

**File:** B-420353

**Date:** February 15, 2022

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## DIGEST

Protest challenging agency's exclusion of protester's proposal from competition is dismissed where the protester failed to follow solicitation instructions to submit all administrative requirements in required format, the solicitation clearly advised offerors that failure to follow the instructions would result in elimination, and the protester did not challenge the clearly stated ground rules before the closing date set for receipt of proposals.

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## DECISION

Defense Solutions Group, LLC (DSG), a small business located in Virginia Beach, Virginia, protests the exclusion of its proposal for the award of a task order from the competition by the Defense Information Systems Agency (DISA), under request for proposals (RFP) No. 832017100, to obtain information technology (IT) support services. The protester asserts that the agency's decision to exclude its proposal from the competition for failing to comply with two solicitation administrative requirements was unreasonable.

We dismiss the protest.

## BACKGROUND

On June 22, 2021, the agency issued the RFP, as a small business set-aside, to firms holding Department of Defense's (DOD's) ENCORE III multiple-award, indefinite-delivery, indefinite-quantity (IDIQ) contracts, pursuant to the procedures of

Federal Acquisition Regulation (FAR) subpart 16.5.<sup>1</sup> RFP amend. 13<sup>2</sup> at 2. The solicitation contemplated the issuance of a hybrid fixed-price, cost-reimbursement task order for services in support of DISA's Services Directorate requirement for Sustainment Support East Computing Ecosystem Infrastructure & Sustainment Line of Business contract. *Id.* The solicitation advised offerors that the task order would be issued on a best-value tradeoff basis considering technical/management approach and price factors. *Id.* at 5.

The RFP included instructions for submission of proposals, to include instructions for what the solicitation referred to as "administrative requirements," which were set forth under paragraph 2 (a-i) of the solicitation. *Id.* As relevant, one of the administrative requirements (paragraph 2(c)) dictated the format for submission of DOD form, DD Form 254.<sup>3</sup> The solicitation specified that:

Offerors<sup>[4]</sup> shall complete Blocks 6 and 7 of the DD Form 254 (Attachment 3) with the appropriate information for their companies. *The DD Form 254(s) shall be submitted in the original Government-provided, Attachment 3, PDF [portable document format] form.* A separate DD Form 254 shall be submitted for each proposed subcontractor (when applicable). Completed DD Forms 254 shall be submitted with proposals.

*Id.* at 3 (emphasis added).

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<sup>1</sup> ENCORE III provides the DOD, other federal agencies, and the intelligence community, a full spectrum of IT services and solutions ranging from engineering development to full sustainment under two suites (full and open large business suite and small business set-aside suite) of multiple award IDIQ contracts. Contracting Officer's Statement and Memorandum of Law at 4-5; *see generally*, ENCORE-III-Fact Sheet available at <https://www.disa.mil/> last visited February 6, 2022.

<sup>2</sup> The solicitation was amended 13 times. Unless otherwise noted, all citations to the solicitation are to RFP amendment 13, which was issued on October 20, 2021, and included as exhibit 1a of the agency report.

<sup>3</sup> Based on information furnished by the parties and information published in title 32 of the Code of Federal Regulations part 117, National Industrial Security Program Operating Manual (NISPOM) on its website, the government uses DD Form 254, Contract Security Classification Specification, to convey security requirements to contractors when contract performance requires access to classified information. Prime contractors also use DD Form 254 to convey security requirements to subcontractors who also require access to classified information. *See generally*, NISPOM Rule, available at <https://www.dcsa.mil/mc/ctp/NISPOM-Rule/> (last visited February 6, 2022).

<sup>4</sup> Although firms that compete for task orders under IDIQ contracts are generally referred to as "vendors," the record here uses the term "offerors." For the sake of consistency, we refer to the firms as offerors.

DISA received a number of questions regarding the solicitation requirements. As part of the questions and answers (Q&A) incorporated in the RFP, the agency clarified the solicitation's administrative requirements, as follows:

**Q:** Should we include the following as attachments within the technical proposal or as stand alone document to be submitted with the proposal: OCCI [organizational and consultant conflicts of interest] mitigation plans, DD254(s), SCRM [supply chain risk management] plans, GFP [government furnished property] Attachment, FAR/DFARS [Defense Federal Acquisition Regulation Supplement] Provisions/Clauses attachment, and Section 508<sup>5</sup> compliance.

**A:** These documents should be provided as stand alone documents.

Agency Report (AR) exh. 1i, RFP amend. 12, Q&A No. 28.

In explaining how the agency would evaluate proposals, the RFP stated that the agency first would review proposals for compliance with the solicitation's administrative requirements. Proposals that did not meet or adhere to any part of the RFP's administrative requirements would not be evaluated under the technical/management approach factor and would not be considered for award. RFP at 5.

Also pertinent here, the instructions to offerors included the following warning:

*If an offeror is considered to not meet or adhere to any part of the administrative requirements of the RFP (paragraph 2 (a-i) in its entirety), the offeror's proposal will not be further evaluated or considered for award. After determining proposals that adhered to all solicitation administrative requirements, the technical/management proposal will be evaluated in accordance with [paragraph] 3.c. [the evaluation factors and subfactors] and further considered for award.*

*Id.* (emphasis added).

Elsewhere, the solicitation stated that only proposals *received in the manner required by the RFP* would be evaluated under the stated evaluation factors and considered for award. *Id.* at 9 (emphasis added).

On or before the October 25, proposal due date, DISA received several proposals in response to the solicitation, including a proposal from DSG. Contracting Officer's Statement and Memorandum of Law at 10. The agency first reviewed the proposals for

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<sup>5</sup> Though not at issue in this protest, section 508 refers to the Rehabilitation Act of 1973, as amended, which generally requires that agencies' electronic and information technology be accessible to people with disabilities. See 29 U.S.C. § 794d.

compliance with the RFP's administrative requirements and found that DSG, and two other offerors, failed to comply with all the solicitation's administrative requirements. *Id.* at 10-11.

On November 1, the agency notified DSG that its proposal was excluded from further evaluation and had been eliminated from the competition because the firm's proposal submission did not comply with two RFP administrative requirements. AR exh. 4a, Notice of Exclusion at 1. The notice of exclusion stated: "[t]he DD Form 254 submitted, titled 'Attachment D\_Team DSG DD254s\_RFP832017100[']', with your proposal was included as a picture in Microsoft Word format. The use of an image in the Microsoft Word file is not the original [g]overnment-provided PDF form. As a result, the proposal [was] determined to not adhere to part of the administrative requirements." *Id.*

The notice also stated that DSG's "[a]ttachment C\_Team DSG\_RFP832017100\_Reps&Certs\_12 October did not include a response to Additional DITCO Instruction, G1, Points of Contact." Accordingly, the agency determined that DSG's proposal did not adhere to the administrative requirement set forth in paragraph 2i of the RFP. *Id.*

After requesting and receiving a debriefing, DSG filed this pre-award protest.<sup>6</sup>

## DISCUSSION

DSG challenges the agency's exclusion of its proposal from the competition, arguing that the administrative requirements for which DSG was eliminated were not material and were not rationally related to any legitimate agency need. *See generally*, Protest at 5-8; Comments at 6-9. As discussed below, we dismiss the protest.

### DD Form 254

One of the administrative requirements at issue concerns the protester's failure to comply with RFP paragraph 2c, concerning the submission of DD Form 254. As noted above, the solicitation included instructions for the submission of DD Form 254, which the RFP identified as an administrative requirement. Specifically, the RFP directed that "[t]he DD Form 254(s) shall be submitted in the original Government-provided, Attachment 3, PDF form." RFP at 3. As also noted above, the solicitation put offerors on notice that if an offeror failed "to meet or adhere to any part of the administrative requirements of the RFP (paragraph 2 (a-i) in its entirety), the offeror's proposal will not be further evaluated or considered for award." *Id.* at 5.

There is no dispute that DSG submitted the completed DD Form 254 as an image file in a Microsoft Word document rather than as a stand-alone PDF file, as required by the

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<sup>6</sup> The estimated value of this task order is valued in excess of \$25 million, and would be placed under an IDIQ contract awarded by DISA. Accordingly, our Office has jurisdiction to consider DSG's protest. 10 U.S.C. § 2304c(e)(1)(B).

RFP. Comments at 1; see *also*, AR exh. 2e, Protester's DD Form 254s.<sup>7</sup> Conceding that it "submitted the PDF DD254 form as an image file of the PDF in a Word document" see Comments at 1, the protester argues that the completed DD Form 254 image file and the substantive information included therein was visually identical to the information included in the PDF file. Comments at 6. Because the image file DSG provided DISA contained all of the required information, the protester argues that DISA's exclusion of its proposal from the competition for failing to submit the DD Form 254 as a PDF file was improper because this requirement was immaterial and not rationally related to any legitimate agency need. See *generally*, Protest at 3-6; Comments at 1-2.

In support of its position, DSG argues that the provisions of the DD Form 254 do not become relevant until contract performance. Protest at 5; Comments at 7. Specifically, DSG contends that "[t]he DD254 form is not submitted to obtain security clearances until after award is made" when the form "must be signed and dated by [a]gency officials at that *later* time." Comments at 7 (emphasis in original). According to DSG, since approval of DD Form 254 would occur after selection of an awardee, its proposal should not have been excluded before consideration of the merits of its proposal simply because the DD Form 254s were submitted as image files. In this regard, the protester asserts that the agency report provided no explanation how an image file of DD Form 254 impeded or made evaluation of proposals more difficult or why the completed DD Form 254 was needed at the time of proposal submission. The protester further asserts that the agency report did not include any explanation of what differentiates a Word image file from a PDF file. See *generally*, Comments at 6-7. As a result, DSG complains that the agency did not establish that this "requirement" was material at the evaluation stage of the procurement. Comments at 7.

DISA counters that the solicitation unequivocally required compliance with all the enumerated administrative requirements at the time of proposal submission and put offerors on notice that failure to do so would result in the exclusion of their proposal from the competition. In other words, the agency argues, these requirements reflected mandatory minimum agency requirements; compliance was not permissive, as the protester suggests. According to DISA, to the extent the protester believes the agency's clearly stated submission requirements are not material, and therefore should not provide a basis for rejection of its proposal, despite the clear solicitation language to the contrary, the protest constitutes an untimely challenge to the terms of the solicitation, which DSG was required to raise prior to the time set for receipt of proposals. Contracting Officer's Statement and Memorandum of Law at 14-15.

In any event, DISA advances several reasons why it required submission of DD Form 254 as a stand-alone PDF file. First, the agency explains that administrative requirements, such as those at issue here, can create a standard proposal format which impacts the agency's ability to evaluate the submissions, thereby simplifying the evaluation process. Contracting Officer's Statement and Memorandum of Law at 16.

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<sup>7</sup> DSG submitted a DD Form 254 for itself and each of its subcontractors, as required by the solicitation.

Next, the agency explains that the DD Form 254 PDF file contains drop down menus and other formatting that could be lost when saved in a non-PDF format. *Id.* at 9. Finally, the agency reports that a format other than the original government-provided PDF attachment would not facilitate security acceptance.<sup>8</sup> *Id.* at 19. In a declaration submitted by the contracting officer, she explains:

[t]he phrase “facilitate security acceptance” as it relates to the DD Form 254 means the security office, the COR [contracting officer’s representative] and any other necessary parties can review a single PDF form per company, fill-in or complete the fields within the form, and electronically sign the form. The security office which receives and approves the DD Form 254 has requested that the information be supplied to them in the Government-provided PDF form with all required fields filled in. The Government-provided PDF form provides the ability of the appropriate authority to sign the form electronically in the appropriate field. The RFP requirement to submit the DD Form 254 in the Government provided PDF form facilitates security acceptance.

Electronic Protest Docketing System No. 17, Decl. of Contracting Officer at 1. Accordingly, because DSG failed to submit a proposal that complied with the solicitation’s clearly stated administrative requirements, the agency maintains that it properly excluded DSG’s proposal from the competition.

In our view, DSG’s complaint about the agency’s enforcement of this clearly stated threshold requirement is, in essence, an assertion that the solicitation’s requirement was unreasonable. Under our Bid Protest Regulations, protests based upon alleged improprieties in a solicitation, which are apparent prior to the time set for receipt of initial proposals, must be filed prior to that time. 4 C.F.R. § 21.2(a)(1).

As detailed above, the solicitation clearly informed offerors that they were required to adhere to all solicitation administrative requirements, to include submission of the DD Form 254 as a stand-alone PDF file. RFP at 5. Accordingly, to the extent DSG now contends that DISA’s administrative requirements were immaterial or irrelevant

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<sup>8</sup> In this regard, we requested that the agency furnish our Office with additional information regarding how submission of DD Form 254 as a stand-alone PDF file facilitates security acceptance, and reviewed the agency’s response. Electronic Protest Docketing System No. 17, DISA Resp. to GAO’s Request for Information at 1; Decl. of Contracting Officer at 1; see *also*, DCSA (Defense Counterintelligence and Security Agency) Security Review and Rating process available at <https://www.dcsa.mil/mc/ctp/srrp/> last visited February 6, 2022.

requirements, such a challenge constitutes an untimely challenge to the terms of the solicitation. *See, e.g., People, Technology & Processes, LLC*, B-417208, Mar. 21, 2019, 2019 CPD ¶ 113 at 9 n.15.

The protest is dismissed.

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General Counsel