



## Decision

**Matter of:** Acoustic Technology, Inc.

**File:** B-421148

**Date:** November 22, 2022

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### DIGEST

Protest challenging evaluation of protester's proposal as technically unacceptable is denied where the agency's evaluation was reasonable and in accordance with the terms of the solicitation.

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### DECISION

Acoustic Technology, Inc., doing business as ATI Systems (ATI), a small business of Boston, Massachusetts, protests the award of a contract to EWING Engineered Solutions, of Allen, Texas, under request for proposals (RFP) No. FA670322R0003, which was issued by the Department of the Air Force for the upgrade of a Giant Voice (GV) alert system at Dobbins Air Reserve Base (ARB) in Marietta, Georgia. The protester challenges the agency's evaluation of proposals and resulting award decision.

We deny the protest.

### BACKGROUND

The agency issued the RFP as a combined synopsis/solicitation pursuant to Federal Acquisition Regulation (FAR) parts 12 and 13 on July 18, 2022, and subsequently amended it three times. Contracting Officer's Statement (COS) at 2, 4.<sup>1</sup> The RFP sought proposals to engineer, design, furnish, install, and test a turnkey GV system

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<sup>1</sup> Citations to the record are to the numbered pages provided by the agency in its report, unless otherwise noted.

including outdoor GV and indoor “small voice” for buildings at Dobbins ARB. Agency Report (AR), Tab 6, Statement of Work (SOW) at 2. The upgraded system must provide sufficient intelligible voice coverage for the entire base populace with real-time emergency alerting messages and accurate health system status, as well as other specified features, and must be compatible with a government-furnished network alerting system. *Id.*

The RFP stated that the agency was utilizing FAR part 13 simplified acquisition procedures, and provided that a single, fixed-price contract would be awarded on a lowest-priced, technically acceptable basis using a single technical capability factor comprising three subfactors. AR, Tab 3, RFP at 12-13. To be found acceptable under the technical capability factor, a proposal was required to be evaluated as acceptable under each subfactor: critical path;<sup>2</sup> written narrative; and contractor qualifications. *Id.* at 13.

As relevant here, the written narrative subfactor required offerors to submit a narrative of their technical approach to allow for an evaluation of design, method of installation, and equipment meeting or exceeding the SOW’s requirements. *Id.* at 10. To be found acceptable under that subfactor, the RFP required a proposal to demonstrate a sound and thorough plan clearly outlining the offeror’s technical approach to providing the required system upgrade and meeting the equipment specifications and performance requirements of the SOW. *Id.* at 14.

As revised through an amendment issued on August 22, 2022, the RFP’s contractor qualifications subfactor required offerors to submit documentation identifying the offeror as an authorized Motorola Solutions Partner. COS at 4; AR, Tab 8, RFP amend. 3 at 3. To be found acceptable under this subfactor, the RFP required a proposal to include documentation that the offeror was an authorized Motorola Solutions Partner, subject to validation with Motorola Solutions, Inc. AR, Tab 8, RFP amend. 3 at 3. The August 22 amendment also changed the proposal due date from August 23 to September 15. *Id.* at 1.

Following receipt of proposals, the agency contacted ATI to request additional information regarding its proposed technical solution, and to confirm that ATI was a Motorola Solutions Partner. AR, Tab 12, ATI Clarification Email at 3. After the protester responded, the agency asked ATI how its name would appear in the Motorola Solutions Partner search engine. *Id.* at 2. The protester provided the agency with an excerpt of a statement of work between Motorola Solutions, Inc. and ATI, and stated that the agency may not find the protester in the search engine. *Id.* at 1. Thereafter, the agency contacted Motorola Solutions, Inc., which confirmed that the protester was not an authorized Motorola Solutions Partner. AR, Tab 13, Motorola Solutions, Inc. Confirmation Email at 1-2.

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<sup>2</sup> ATI did not challenge the agency’s assessment of its proposal under the critical path subfactor, and as a result, we do not discuss this subfactor further.

On September 30, 2022, the agency published a notice of contract award to EWING in the amount of \$879,685.56. COS at 6. That same day, the protester requested a “debriefing.” AR, Tab 16, ATI’s Request for Debrief at 2. On October 4, the agency provided the protester with a brief explanation of the basis for award, including that the agency had found ATI’s proposal unacceptable under the written narrative and contractor qualifications subfactors.<sup>3</sup> *Id.* at 1. With respect to the written narrative subfactor, the agency explained that ATI’s proposal did not meet the specifications and performance requirements of the SOW. *Id.* Under the contractor qualifications subfactor, the agency stated it had found that ATI was not a Motorola Solutions Partner. *Id.* This information reflected the findings of the contracting officer with respect to ATI’s proposal, which are documented in the award decision. See AR, Tab 14, Determination of Fair & Reasonable Price at 2.

On October 5, the protester filed this protest challenging the agency’s evaluation of its proposal.

## DISCUSSION

The protester argues that the agency unreasonably found that ATI’s written narrative did not demonstrate that the protester’s proposal met the specifications and performance requirements of the SOW under the written narrative subfactor, as well as that ATI was not a Motorola Solutions Partner under the contractor qualifications subfactor. Protest at 1-3. We first address the agency’s evaluation under the contractor qualifications subfactor.

### Contractor Qualifications Subfactor

In reviewing protests challenging the evaluation of an offeror’s proposal, it is not our role to reevaluate proposals; rather, our Office examines the record to determine whether the agency’s judgment was reasonable, and in accordance with solicitation criteria and applicable procurement statutes and regulations. *Patriot Def. Group, LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 7. A protester’s disagreement with the agency’s assessment, without more, does not render the evaluation unreasonable. *The Ginn Group, Inc.*, B-420165, B-420165.2, Dec. 22, 2021, 2022 CPD ¶ 17 at 9.

We find that the agency’s evaluation of ATI’s proposal under the contractor qualifications subfactor was both reasonable and in accordance with the RFP’s criteria. As addressed above, the RFP required offerors to submit documentation identifying the

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<sup>3</sup> Notwithstanding that the contracting officer indicated that the agency provided a debriefing to the protester, see COS at 6, the record is clear that the agency provided the protester with only a brief explanation of the basis for contract award in accordance with FAR sections 13.106-3(d) and 15.503(b)(2), see AR, Tab 16, ATI’s Request for Debrief at 1, as is required where a procurement is conducted in accordance with FAR part 13 simplified acquisition procedures. See *Gorod Shtor*, B-411284, May 22, 2015, 2015 CPD ¶ 162 at 3.

offeror as an authorized Motorola Solutions Partner. To be found acceptable, a proposal was required to demonstrate that the offeror was an authorized Motorola Solutions Partner, subject to validation with Motorola Solutions, Inc.

ATI's proposal does not state or provide documentation that the protester is a Motorola Solutions Partner; rather, it states that ATI is a Channel Reseller Partner with Motorola Solutions and that ATI had recently entered into a joint venture with Motorola Solutions. AR, Tab 10, ATI Proposal at 25. As discussed above, when the agency requested additional information, ATI stated that it was a Motorola Solutions Partner and provided an excerpt from a statement of work between Motorola Solutions, Inc. and ATI that appears to be related to the joint venture referenced in ATI's proposal. AR, Tab 12, ATI Clarification Email at 1, 3. The agency then sought validation of ATI's status as an authorized Motorola Solutions Partner from Motorola Solutions, Inc., which reported that ATI was not a Motorola Solutions Partner. AR, Tab 13, Motorola Solutions, Inc. Confirmation Email at 1-2.

Based on this information, it was reasonable for the agency to find that ATI was not an authorized Motorola Solutions Partner, and that ATI's proposal therefore was unacceptable under the contractor qualifications subfactor. Moreover, this evaluation was in keeping with the RFP's terms, which required that a proposal demonstrate that the offeror was an authorized Motorola Solutions Partner, and made clear that the agency would validate the offeror's status with Motorola Solutions, Inc. Consistent with the terms of the RFP, the agency found ATI's proposal unacceptable under the contractor qualifications subfactor, and therefore unacceptable under the technical capability factor. See AR, Tab 3, RFP at 13.

The protester initially alleged that the agency's evaluation of ATI's proposal as unacceptable under the contractor qualifications subfactor was unreasonable because ATI has a type of partnership that would not be found in the Motorola Solutions Partner search engine. See Protest at 3. Following submission of the agency report, the protester did not substantively respond to the agency's arguments on this point, instead alleging for the first time that the RFP's requirement that an offeror be an authorized Motorola Solutions Partner was unduly restrictive of competition. See Comments at 2-3.

Where an agency provides a detailed response to a protester's assertions and the protester fails to rebut or otherwise substantively address the agency's arguments in its comments the protester provides us with no basis to conclude that the agency's position with respect to the issue in question is unreasonable or improper. *Straughn Env'tl., Inc., B-411650 et al.*, Sept. 18, 2015, 2015 CPD ¶ 287 at 10. Moreover, as discussed above, the record demonstrates that the agency reasonably found ATI's proposal unacceptable under the contractor qualifications subfactor based on the information in ATI's proposal, the additional information provided by ATI, and the agency's validation efforts with Motorola Solutions, Inc. Furthermore, with respect to the protester's argument that the RFP's requirement for offerors to submit documentation establishing they were a Motorola Solutions Partner was unduly restrictive of competition, our Bid Protest

Regulations require that protests based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals must be filed before that time. 4 C.F.R. § 21.2(a)(1). The protester did not raise this argument prior to the closing time for the receipt of initial proposals, and in fact did not raise it until after award of the contract. It is therefore untimely and will not be considered further.

Accordingly, the protest is denied with respect to the evaluation of ATI's proposal under the contractor qualifications subfactor.

#### ATI's Other Protest Allegations

The protester also raises challenges to the evaluation of its proposal under the written narrative subfactor, alleging that the agency unreasonably found ATI's proposal unacceptable under that subfactor, and failed to engage in meaningful discussions regarding ATI's proposed technical solution. Protest at 1-2. Competitive prejudice is an essential element of a viable protest, and we will sustain a protest only where the protester demonstrates that, but for the agency's improper actions it would have had a substantial chance of receiving the award. *Booz Allen Hamilton, Inc.*, B-417418, *et al.*, July 3, 2019, 2019 CPD ¶ 246 at 4. Here, pursuant to the RFP, a proposal that was rated unacceptable under any subfactor under the technical factor was ineligible for award. RFP at 13. As we find that the agency reasonably determined the protester's proposal was not technically acceptable under the contractor qualifications subfactor, ATI is not eligible for award. Accordingly, the protester is not prejudiced even if the remainder of the evaluation were unreasonable. *Zolon PCS, LLC*, B 419283, Jan. 14, 2021, 2021 CPD ¶ 26 at 8.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel