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# Decision

**Matter of:** ITSC Secure Solutions, LLC

**File:** B-422731; B-422731.3

**Date:** October 4, 2024

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Michael Willems, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest challenging the agency's price realism evaluation is denied where the agency's use of a standard deviation methodology was reasonable and consistent with the terms of the solicitation.
2. Protest alleging that agency misevaluated technical proposals and made an unreasonable source selection decision is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

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## DECISION

ITSC Secure Solutions JV, LLC, (ITSC) a small business of Owens Crossroads, Alabama, protests the issuance of a task order to Gemini Industries, Inc., a small business of Fairfax, Virginia, pursuant to fair opportunity proposal request (FOPR) No. FA714624R0002 issued under General Services Administration's (GSA) One Acquisition for Integrated Services (OASIS) multiple award indefinite-delivery, indefinite-quantity (IDIQ) contract by the United States Air Force for a variety of mission support services. The protester alleges that the agency erred in its evaluation of proposals and best-value tradeoff in several respects.

We deny the protest.

## BACKGROUND

The Air Force published the FOPR on November 29, 2023, and it contemplated the issuance of a single task order primarily on a labor-hour basis with fixed-price labor rates, with an 8-month base period and four 1-year option periods. Agency Report (AR), Tab 3, FOPR at 1.<sup>1</sup> The FOPR contemplated award based on a best-value tradeoff between two factors: technical and price. *Id.* at 6. The technical factor comprised three subfactors: (1) experience, organizational structure, and teaming arrangement; (2) management approach and staffing plan; and (3) transition plan. *Id.* The solicitation further provided that the technical factor was more important than the price factor. *Id.* Additionally, the solicitation explained that the first and second technical subfactors were equally weighted, but that the transition plan subfactor would be evaluated on an acceptable/unacceptable basis and would not be considered in the tradeoff. *Id.*

Relevant to this protest, the solicitation provided that the agency would compute each offeror's evaluated price on the basis of an agency-established staffing level for various positions multiplied by the labor rates furnished by the offerors in their price proposals. *Id.* at 9. The solicitation also provided that price would be evaluated for reasonableness, realism, and completeness. *Id.* The solicitation explained the price realism evaluation as follows:

The Government evaluation of price realism will consider the extent to which proposed labor rates indicate a clear understanding of FOPR requirements and determine whether they reflect a sound approach to satisfying those requirements and whether the proposed escalation factors are realistic. For each labor category, the Government will compare the proposed rates to established "benchmark" rates (comprised of an average of proposed rates and industry indexes) and determine if the proposed rates are within -2 Standard Deviations of the benchmark rates. Any rates below -2 Standard Deviations of the benchmark may<sup>2</sup> be determined unrealistic.

FOPR at 9.

The agency received six proposals, including from ITSC and Gemini. Contracting Officer's Statement (COS) at 11. The agency conducted a preliminary evaluation, including an evaluation of price. *Id.* at 12. Specifically, the agency compiled the labor

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<sup>1</sup> The FOPR was amended twice. All citations are to the conformed FOPR supplied by the agency.

<sup>2</sup> When the solicitation was originally issued, the solicitation explained that rates below two standard deviations "will" be determined unrealistic. See FOPR at 9. An amendment changed "will" to "may," indicating that the agency would not necessarily exclude proposals containing rates below that threshold. *Id.*

rates for all six offerors as well as index rates from the Bureau of Labor Statistics and used them to prepare benchmark rates for each labor category. *Id.* The agency then compared each offeror’s labor rates to the benchmark rates. *Id.*

Based on this analysis, on May 28, the agency issued interchange notices to ITSC. COS at 12. ITSC’s interchange notices explained that as part of the agency’s assessment of price reasonableness the agency determined that six of ITSC’s proposed labor rates were higher than two standard deviations above the benchmarks and invited ITSC to revise its labor rates. *Id.* ITSC elected to revise the identified rates and brought them within two standard deviations of the benchmarks. *Id.*

Following proposal revisions, the agency evaluated the proposals of the protester and awardee as follows:

	ITSC	Gemini
<b>Technical</b>		
Experience, Organizational Structure, and Teaming Arrangement	Good	Good
Management Approach and Staffing Plan	Good	Good
Transition Plan	Acceptable	Acceptable
<b>Total Evaluated Price</b>	\$294,668,575	\$253,396,638

COS at 15, 21.

Because the offerors received similar technical ratings and had underlying strengths of similar value to the agency, the agency ultimately concluded that Gemini’s lower price was the distinguishing factor between the two proposals and made award to Gemini. AR, Tab 15, Fair Opportunity Decision Document (FODD) at 35. This protest followed.<sup>3</sup>

## DISCUSSION

The protester challenges the agency’s evaluation in several respects. First, the protester challenges the agency’s price realism evaluation as both inconsistent with the solicitation and with our prior decisions. Comments and Supp. Protest at 14-17. Second, the protester challenges the agency’s evaluation of its technical proposal in

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<sup>3</sup> The value of the protested task order exceeds \$10 million and was placed under GSA’s OASIS multiple award IDIQ. Accordingly, this protest is within our jurisdiction to hear protests of task orders placed under civilian agency IDIQ contracts. 41 U.S.C. § 4106(f)(1)(B).

several respects. Protest at 14-18. Finally, the protester alleges that the agency's best-value tradeoff was unreasonable and inadequately documented.<sup>4</sup> Protest at 11-12.

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<sup>4</sup> The protester advances other collateral arguments not addressed in this decision. We have considered these arguments and conclude that they provide no basis to sustain the protest. For example, the protester argues that the agency merely performed a mechanical comparison of the offerors' total evaluated prices (TEPs), which do not reflect the prices that offerors actually proposed, but rather only reflect an arbitrary sampling of labor rates. Protest at 12-14. In this regard, the protester contends that the agency failed to take each offeror's unique technical approach and labor mix into account when evaluating price. *Id.*

However, this argument misapplies the terms of the solicitation. The solicitation explained that the agency would compute the TEP using an agency-selected labor mix, and that this TEP would be used for the evaluation of offerors' prices. FOPR at 9. Further, while the protester is correct that the initial solicitation directed offerors to propose a labor mix and level of effort as part of their staffing plans, that language was removed in an amendment because the agency proposed to calculate TEPs based on a pre-selected labor mix. See AR, Tab 3, Attach. 4b, FOPR Questions and Answers at 144 (explaining that the direction to propose a labor mix was removed). That is, in the final solicitation, offerors were not asked to propose a labor mix, but instead to propose their respective labor rates which was the only price-related aspect under the control of the offerors.

While the protester relies on our decision in *BAE Systems Technology Solutions & Services, Inc.* for the proposition that the agency was required to perform a more searching evaluation in this case, that decision is inapposite. See Protest at 13-14 (citing *BAE Systems Technology Solutions & Services, Inc.*, B-420860.4 *et al.*, June 18, 2024, 2024 CPD ¶ 144). Notably, the protester is correct that in *BAE* we concluded that an agency was required to compare cost and technical proposals to assess realism even though the solicitation in that case provided offerors with a fixed labor mix and level of effort. See *BAE Systems Technology Solutions & Services, Inc.*, *supra* at 11-13. However, the solicitation in *BAE Systems* specifically explained that the agency would conduct its cost realism analysis by, among other things, comparing the cost proposal with each offeror's technical and management approaches. *Id.* The solicitation in this case, by contrast, includes no such language in its explanation of how the agency would perform its realism analysis. Because the structure of the solicitation in this case effectively precluded the opportunity for a creative technical approach to affect an offeror's price, and the solicitation did not otherwise provide that the agency would assess realism by comparing technical and price proposals, the agency was not required to perform the kind of comparison the protester contemplates. See *Sabre Sys.*, B-420090.3, June 1, 2022, 2022 CPD ¶ 137 at 4 n.1.

## Price Realism Evaluation

The protester argues that the agency's price realism evaluation was unreasonable and deviated from the terms of the solicitation. Comments and Supp. Protest at 14-17. Specifically, the protester argues that the agency improperly included labor rates for all offerors in computing the benchmark rates without first assessing whether the rates were realistic. *Id.* Additionally, the protester argues that the solicitation provided that the agency would consider the extent to which the proposed labor rates indicate a clear understanding of the requirements and determine whether they reflect a sound approach to satisfying those requirements. *Id.* Finally, the protester argues that the fact that Gemini's TEP was 10 percent below the average TEP should have alerted the agency to the possibility that Gemini's proposal was unrealistic and prompted additional scrutiny. *Id.*

In response, the agency argues that the solicitation explained the agency's price evaluation methodology in detail. Supp. Memorandum of Law (MOL) at 8-14. Specifically, the solicitation explained that the realism analysis would use a defined methodology involving benchmark rates and an assessment of whether labor rates were within two standard deviations of those benchmarks. *Id.* The agency contends that it performed an analysis based on the methodology announced in the solicitation, and that the awardee's final rates all fell within two standard deviations from the benchmark rates. *Id.*

The nature and extent of an agency's price realism analysis are matters within the agency's discretion. See *Tec-Masters, Inc.*, B-416235, July 12, 2018, 2018 CPD ¶ 241 at 7. Further, while a realism analysis must generally include consideration of an offeror's proposed technical approach, we have concluded that where a solicitation specifies the labor mix and level of effort for proposals, there is essentially no unique technical approach for purposes of realism, and an agency may reasonably evaluate the rates proposed for established labor categories based on other available data, such as the rates proposed by other offerors. See, e.g., *Logistics Mgmt. Inst.*, B-417601, B-417601.2 et al., Aug. 30, 2019, 2019 CPD ¶ 311 at 13 (concluding that where the agency provided a labor mix and level of effort comparison of the awardee's labor rates to the rates of other offerors was sufficient to establish realism); *Booz Allen Hamilton, Inc.*, B-414283, B-414283.2, Apr. 27, 2017, 2017 CPD ¶ 159 at 10 (same). Additionally, our decisions have specifically concluded that a standard deviation methodology for a price realism evaluation can be a reasonable methodology. See *Sprezzatura Mgmt. Consulting, LLC*, B-420858.2, Mar. 6, 2023, 2023 CPD ¶ 100 at 7.

On the facts presented here, we see no reason to conclude that the agency's price realism analysis was unreasonable or inconsistent with the solicitation. First, we do not agree that the agency deviated from the solicitation by including all offerors' proposed labor rates in calculating the benchmark rates. In this regard, the solicitation expressly explained that the benchmark rates would be computed by averaging the rates proposed by offerors and industry indices. That is, the solicitation did not provide for an initial assessment of realism prior to computing the benchmark rates, but instead

defined the benchmark it would use to assess realism as an average including the proposed rates. Here, contrary to the protester's suggestion, the agency prepared the benchmark rates in exactly the way the solicitation contemplated.<sup>5</sup>

Second, we do not agree with the protester that the solicitation necessarily contemplated a separate analysis of whether an offeror's labor rates indicate an understanding of the requirements. Here, the solicitation provided that the agency would evaluate whether an offeror's labor rates reflected a clear understanding of the requirements, but then provided a specific methodology by which the agency would assess that understanding. See FOPR at 9. We do not read the solicitation as providing that an assessment of whether an offeror's labor rates reflect an understanding of the requirements and the standard deviation analysis were two separate analytical steps, but rather that the standard deviation analysis was an explanation of how the agency intended to assess whether an offeror's labor rates reflect an understanding of the requirements in the first instance, with a further assessment if an offeror fell below that standard. *Id.*

Specifically, the FOPR explained that rates below two standard deviations "may" be found unrealistic. *Id.* This solicitation language implies both that rates below two standard deviations would be subject to additional scrutiny, but also that rates within two standard deviations of the benchmarks would be considered realistic. Indeed, where the solicitation provided that the price evaluation would be based on an agency-selected labor mix and hours, and the only aspect of the offerors' pricing proposed by the offerors were their labor rates, it is not unreasonable that the solicitation provided for a relatively limited evaluation of price realism principally based on a comparison of labor rates. See *Logistics Mgmt. Inst., supra; Sprezzatura Mgmt. Consulting, LLC, supra.*

Here, the agency conducted a reasonable and well-documented standard deviation analysis, and the awardee's rates fell within two standard deviations, and therefore did not require additional scrutiny. We see no reason to conclude that the agency erred by performing precisely the methodology announced in the solicitation.

Moreover, contrary to the protester's arguments, the fact that the awardee's TEP was 10 percent lower than the average TEP does not establish that the agency's evaluation was intrinsically unreasonable. While the awardee's final price was 10 percent lower than the average of the prices for the six offers the agency received, the protester's

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<sup>5</sup> To the extent that the protester objects that the specific methodology established by the solicitation for evaluating price realism failed to provide for excluding unrealistic rates from the benchmark rates, such objection constitutes an untimely challenge to the terms of the solicitation. We have explained that post-award challenges to an agency's cost or price evaluation scheme are not timely, if, as here, the challenged scheme was set forth in the solicitation, because a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial quotations or proposals must be filed before that time. 4 C.F.R. § 21.2(a)(1); *Ball Aerospace & Techs. Corp.*, B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 4.

price was 5 percent higher than the average, and the protester received interchange notices because several of its labor rates were in danger of being found unreasonable. That is to say, the awardee's price was on the lower end of the spectrum of offered prices, while the protester's price was on the higher end, but that, without more, does not suggest that either offerors' price is unrealistic or unreasonable. In sum, we see no basis to conclude that the agency's price realism evaluation was unreasonable or inconsistent with the solicitation.

## Technical Evaluation

Next, the protester argues that the agency's technical evaluation of ITSC's proposal was unreasonable in two primary respects. Protest at 14-18; Comments and Supp. Protest at 8-14. First, the protester argues that the agency erred by assigning strengths for corporate experience only when an offeror's experience exceeded the magnitude of the current task order, but not when an offeror's experience exceeded the scope and complexity. *Id.* The protester notes that it had several references that exceed the scope and complexity of the current effort, but that these references did not receive strengths because they had a smaller magnitude. *Id.* Second, the protester notes that the agency assessed three strengths for its management approach and staffing plan, concluding, among other things, that the protester proposed a robust [DELETED]. *Id.* The protester argues that it therefore met the solicitation's requirements for a rating of excellent rather than a rating of good for this subfactor, and the agency's evaluation is internally inconsistent and irrational. *Id.*

In response, the agency first contends that the solicitation required offerors to demonstrate experience similar in terms of scope, complexity, and magnitude to this effort, and that the agency assigned strengths only when a given experience reference met or exceeded all three elements. MOL at 34-41. Second, the agency contends that the definition of excellent in the solicitation required more than just receiving multiple strengths and having a robust [DELETED]. *Id.* Among other things, the solicitation required that a proposal must indicate an exceptional approach to or understanding of the requirements of the solicitation as well as demonstrating a robust mechanism to hire and retain capable qualified personnel. *Id.* The agency contends that the protester's proposal did not demonstrate such an exceptional approach or understanding. *Id.* Moreover, while the agency did describe the protester's [DELETED] as robust, that was only one component of the protester's approach to management and retention, which the agency concluded as a whole represented a sound, but not robust approach. *Id.*

The evaluation of technical proposals is generally a matter within the agency's discretion, which our Office will not disturb unless they are shown to be unreasonable or inconsistent with the solicitation's evaluation criteria. *American Systems Corp.*, B-413952.3, B-413952.4, June 23, 2017, 2017 CPD ¶ 204 at 6-7; *NCI Information Systems, Inc.*, B-412680, B-412680.2, May 5, 2016, 2016 CPD ¶ 125 at 4; *ORBIS Inc.*, B-408033.2, June 3, 2013, 2013 CPD ¶ 140 at 4. A protester's disagreement with the agency's evaluative judgment, without more, does not provide a basis for us to conclude that an evaluation was unreasonable. See *DynCorp Int'l, LLC*, B-412451, B-412451.2,

Feb. 16, 2016, 2016 CPD ¶ 75 at 7-8; *Jacobs Tech., Inc.*, B-411784, B-411784.2, Oct. 21, 2015, 2015 CPD ¶ 342 at 10.

Here, we concur with the agency on both counts. Contrary to the protester's contention, while the solicitation required offerors to demonstrate similarity in scope, complexity, and magnitude in order to be found acceptable, the solicitation defined a strength as a feature of a proposal that exceeded the requirements in a way that resulted in a benefit to the government. FOPR at 7. In that context, it is not unreasonable or inconsistent with the solicitation for the agency to assign strengths only for references that met or exceeded all three relevance factors. In short, the protester simply disagrees with the agency's technical judgment in this regard.

With respect to the management approach subfactor, the agency is correct that the solicitation imposed additional requirements beyond receiving multiple strengths in order to receive a rating of excellent. Moreover, while the protester is correct that the evaluators identified a portion of the protester's approach as robust, the FODD is clear that the source selection authority did not believe the protester's management or retention approach as a whole was robust. See AR, Tab 15, FODD at 15 (explaining that ITSC proposed a sound approach consistent with a rating of good, rather than a robust approach). That is, the agency's evaluation is not internally inconsistent or inconsistent with the solicitation in the way the protester suggests.

Additionally, we note that adjectival ratings are simply guides to rational decision-making, and the record suggests that the agency reasonably considered the protester's proposal and substantively discussed the relevant features of the protester's proposal that the protester contends were not adequately acknowledged as excellent. See *Harmonia Holdings Grp., LLC*, B-417475.3, B-417475.4, Sept. 23, 2019, 2019 CPD ¶ 333 at 24; *KPMG Consulting LLP*, B-290716, B-290716.2, Sept. 23, 2002, 2002 CPD ¶ 196 at 13. In short, the protester simply disagrees with the agency's evaluation of its proposal, which is not sufficient to establish that the agency erred. See *DynCorp International, LLC*, *supra*.

#### Best-Value Tradeoff

The protester raises two principal challenges to the agency's best-value tradeoff. Protest at 11-12; Comments and Supp. Protest at 3-7. First, the protester argues that the source selection decision does not reflect the independent judgment of the source selection official, because the record suggests that the source selection official simply rubber-stamped the evaluators' award recommendation. *Id.* Second, the protester contends that the agency's award decision was impermissibly based solely on price, or, in the alternative, based on a mechanical counting of strengths. *Id.*

In response, the agency notes that the FODD reflects significant independent analysis on the part of the source selection authority, and that the agency gave significant consideration to the underlying technical features of each offeror's proposal. MOL at 26-34. While price was the determining factor in the tradeoff in this case, the agency



contends that this was permissible because the technical features of the proposals were of similar substantive value. *Id.*

Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results; price and technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the solicitation's evaluation criteria. *Booz Allen Hamilton Inc., supra* at 13-14. In reviewing protests of an agency's source selection decision, even in a task order competition as here, we do not reevaluate proposals but examine the record to determine whether the evaluation and source selection decision were reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. *Intelligent Waves LLC*, B-416169, B-416169.2, June 12, 2018, 2018 CPD ¶ 211 at 12.

The protester's principal argument in support of its claim that the source selection authority conducted no independent inquiry is that the evaluation documents consistently refer to the "agency" as the entity evaluating proposals and making an award decision, rather than the source selection authority. See Comments and Supp. Protest at 3-5. As additional evidence, the protester contends that the timeline of the agency's evaluation confirms this, because, for example, the award briefing and the FODD are dated the same day, which suggests the source selection authority simply rubber-stamped a pre-existing award decision. *Id.* These arguments are without merit.

First, we note that, as part of the agency report, the agency provided a lengthy and fulsome FODD, which, contrary to the protester's suggestion, documented the source selection authority's independent reasoning and careful consideration of proposals. The fact that the document discusses the "agency" as performing the evaluation or making an award decision is simply not proof of any kind of improper behavior, but rather an acknowledgement of the fact that the source selection authority is speaking for the agency in this context. That is, the source selection authority is the agency's authorized representative with respect to this procurement, and there is nothing peculiar or improper about referring to the agency as the entity making an award decision, because it is the agency, not the source selection authority as an individual, that is issuing the task order.

Similarly, the fact that the award briefing and FODD were finalized on the same date is not evidence of any inappropriate abdication of the source selection authority's role. Indeed, while both documents were signed on the same date, they were also signed by the same official--the source selection authority. See AR, Tab 14, Decision Brief at 57 and Tab 15, FODD at 37. That is to say, the fact that both documents were approved by the same official on the same date simply suggests that the source selection authority finalized the award decision on that date by signing off on documents that had previously been prepared and does not give rise to any credible inferences about who prepared the documents or when. More significantly, the FODD contains significant analysis and discussion not found in the award briefing, which is further evidence that

the source selection authority clearly exercised independent judgment in making her final decision.

Turning to the protester's argument that the best-value tradeoff improperly focused solely on price or on a mechanical counting of strengths, here, the agency found that the protester and awardee offered similar technical benefits to the agency, and therefore price was the distinguishing feature between the two proposals. Indeed, the FODD specifically discusses the substantive technical features of the proposals at length, concluding that ITSC's proposal was not significantly technically superior to Gemini's based on a substantive comparison of the proposals' respective technical features. AR, Tab 15, FODD at 35. Moreover, the FODD specifically concluded that any technical benefit offered by ITSC was not worth the significant price premium. *Id.*

In short, the agency's decision was neither predicated solely on price, nor based on a mechanical counting of strengths. Rather, the FODD reflects that the source selection authority gave significant and substantive consideration to the technical features of both proposals and reasonably concluded that the technical merits of the protester's proposal did not merit paying a 16 percent price premium.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel