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# Decision

**Matter of:** Culmen International, LLC

**File:** B-422969

**Date:** December 20, 2024

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## DIGEST

1. Protest alleging the agency's discussions were misleading and coercive is denied where the agency addressed legitimate concerns in the protester's proposal and provided the protester with an opportunity to address the concerns.
  2. Protest challenging the agency's evaluation of proposals is denied where the evaluation was reasonable and in accordance with the terms of the solicitation.
  3. Protest that the agency failed to conduct a proper best-value tradeoff analysis is denied where protester fails to demonstrate that the tradeoff was unreasonable.
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## DECISION

Culmen International, LLC, of Alexandria, Virginia, protests the issuance of a task order to PAE Applied Technologies LLC (Amentum), of Germantown, Maryland, under fair opportunity proposal request (FOPR) No. FA4890-24-R-CN02.<sup>1</sup> The Department of the Air Force issued the solicitation for services in support of counterdrug, counter organized crime, and counter-terrorism missions conducted by federal law enforcement

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<sup>1</sup> PAE Applied Technologies LLC bought Amentum in 2022. See Protest at 1 n.2. The protester refers to the awardee as Amentum, and we do likewise in this decision.

agencies. The protester contends that the agency conducted misleading and coercive discussions, unreasonably evaluated the protester's proposal, and failed to conduct a proper best-value tradeoff analysis.

We deny the protest.

## BACKGROUND

On April 15, 2024, the agency issued the solicitation in accordance with Federal Acquisition Regulation (FAR) section 16.505 to the eight contract holders under the agency's Counter Narcotics and Global Threats Operations, Logistics, and Training multiple award indefinite-delivery, indefinite-quantity (IDIQ) contract. Agency Report (AR) Tab 1, Contracting Officer's Statement (COS) at 2; AR, Tab 3, FOPR at 264.<sup>2</sup> The solicitation contemplated the issuance of a fixed-price, level-of-effort task order with a transition period of 4 months, a base period of 12 months, seven 12-month option periods, and a 6-month option to extend services. FOPR at 264-265. The due date for proposals was May 15, 2024. *Id.* at 265.

The solicitation provided for the evaluation of proposals based on the following evaluation factors: technical and price.<sup>3</sup> *Id.* at 269-272. The technical factor consisted of the following two equally weighted subfactors: management/staffing and technical approach/mission understanding. *Id.* at 270-271. For the management/staffing subfactor, the solicitation required offerors to address two criteria. *Id.* For the first criterion, the solicitation required offerors to detail their process for recruiting, hiring, managing, and retaining the required personnel. *Id.* Specifically, the solicitation required offerors to describe (1) their plan for ensuring that fully qualified staff would be in place at the start of the base period, (2) their compensation packages and any incentives to minimize employee turnover, and (3) any risks to retention and their plan to mitigate those risks. *Id.* For the second criterion, the solicitation required offerors to provide their strategy for managing vacancies, notifying the agency of any imminent

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<sup>2</sup> The agency amended the solicitation twice; all citations reference the Adobe PDF page number of the final amended version.

<sup>3</sup> The solicitation provided that proposals would receive a technical rating of outstanding, good, acceptable, or unacceptable. FOPR at 270. A rating of outstanding indicated that proposal presented an exceptional approach and understanding of the requirements, contained multiple strengths, and the risk of unsuccessful performance was low. *Id.* A rating of good indicated that the proposal presented a thorough approach and understanding of the requirements, contained at least one strength, and the risk of unsuccessful performance was low to moderate. *Id.* A rating of acceptable indicated that the proposal presented an adequate approach and understanding of the requirements, and the risk of unsuccessful performance was no worse than moderate. *Id.* A rating of unacceptable indicated that the proposal did not meet the requirements of the solicitation, contained one or more deficiencies, and the risk of unsuccessful performance was unacceptable. *Id.*

vacancies, and tracking and reporting personnel status information. *Id.* Offerors were also to describe their plan to mitigate personnel disruption and turnover. *Id.*

For the technical approach/mission understanding subfactor, the solicitation required offerors to address three criteria. *Id.* For the first criterion, the solicitation required offerors to provide their understanding and technical approach in response to the counterthreat finance requirements under the performance work statement (PWS). *Id.* For the second criterion, the solicitation required offerors to describe their strategy for providing personnel with the required qualifications for all tasks under the PWS. *Id.* In the event the key personnel exceeded the required qualifications, the solicitation required the offeror to describe whether that position would be permanently filled by an individual whose qualifications exceeded the requirements and the anticipated benefit to the agency. *Id.* For the third criterion, the solicitation required offerors to describe their recent experience that was similar in magnitude and scope to the current requirement. *Id.* The solicitation further required offerors to provide details regarding experience with credential/certification support services for large numbers of analysts. *Id.*

The solicitation provided that the agency would evaluate price proposals for completeness, reasonableness, and balanced pricing. *Id.* at 272. The solicitation further provided that price proposals were to provide a compensation plan for professional employees in accordance with FAR provision 52.222-46. *Id.* The solicitation noted that the agency might view compensation plans that were unrealistically low or not in reasonable relationship to the job categories as evidence of a failure to understand the requirements. *Id.*

The solicitation provided for issuance of the task order on a best-value tradeoff basis where technical was significantly more important than price. *Id.* at 267.

#### Initial Evaluation and Interchanges

The agency received three proposals by the solicitation deadline of May 15, 2024, including proposals from Culmen and Amentum. COS at 11. The initial evaluation results for Culmen’s proposal were as follows:

	<b>Culmen</b>
<b>Management/Staffing</b>	Good
<b>Technical Approach/ Mission Understanding</b>	Acceptable
<b>Total Evaluated Price</b>	\$230,425,328

AR, Tab 10, Fair Opportunity Decision Document (FODD) at 7. Following the initial evaluation, the agency engaged in “interchanges” with Culmen. COS at 11. The agency issued two technical interchange notices and three pricing interchange notices

to Culmen. *Id.* at 11. The first technical interchange notice requested that Culmen provide additional information on Culmen's proposed deputy program manager role. FODD at 21. The agency noted that Culmen proposed one individual to serve as both a deputy program manager and a counterthreat finance analyst. *Id.* The agency stated that this aspect of Culmen's proposal posed a risk because it was unclear how one individual could perform both roles without jeopardizing their ability to fulfill their primary duties. *Id.* Culmen responded to the interchange notice by removing the deputy program manager responsibilities from the counterthreat finance analyst position and providing for them elsewhere in its proposal. *Id.* at 36. The agency concluded that Culmen's response addressed the weakness and assigned Culmen's proposal a strength based on the revised approach. *Id.*

The second technical interchange notice sought clarification regarding the timing of Culmen's proposed hiring status reports. *Id.* at 36. Specifically, Culmen's proposal provided that the program manager and deputy program manager would provide these reports on the fifteenth of every month; the solicitation required weekly reports. *Id.* In response to the notice, Culmen revised its proposal to conform to the requirements, which the agency concluded was acceptable. *Id.* at 36-37.

The first pricing interchange notice requested that Culmen acknowledge an amendment that revised the PWS. AR, Tab 7, Pricing Interchange Notice and Culmen Response at 1. Culmen stated that it acknowledged and understood the revisions; the agency concluded that Culmen's response addressed all aspects of the notice and took no exceptions to the response. FODD at 53.

The second pricing interchange notice requested that Culmen address the agency's concern that Culmen's total professional compensation, including its direct labor rates for some positions, appeared to be unrealistically low. AR, Tab 7, Pricing Interchange Notice and Culmen Response at 5. The notice explained that the direct labor rates for certain labor categories were "significantly lower than current compensation on [the] contract, the competitive prices received in response to [the] FOPR, and the IGE [independent government estimate]." *Id.* The notice further provided that Culmen's proposed professional compensation plan did not appear to account for "price differences based on geographic location." *Id.* Culmen responded by repricing the relevant positions. *Id.* at 6. The agency took no exception to Culmen's response as Culmen increased its direct labor rates on its revised pricing sheet and adjusted the direct labor rates based on geographic location. FODD at 55.

The third pricing interchange noted that Culmen's proposal appeared to provide subcontractor burdened labor rates in the basic labor rate column for certain positions. AR, Tab 7, Pricing Interchange Notice and Culmen Response at 7-8. The agency requested that Culmen resubmit the CLIN (contract line item number) pricing sheet with direct basic labor rates for any positions that had subcontractor rates. *Id.* at 8. Culmen responded by, among other things, providing a separate column in its proposal to differentiate subcontractor rates from the direct labor rates. *Id.* at 9. The agency concluded that although some direct labor rates still appeared to be low, it took no

exception to Culmen’s response as the total compensation package, which included fringe benefits and other incentives, appeared to have a sufficient justification. FODD at 57.

#### Final Evaluation Results and Current Protest

Following the interchanges, the final evaluation results for Culmen and Amentum were as follows:

	<b>Culmen</b>	<b>Amentum</b>
<b>Management/Staffing</b>	Good	Good
<b>Technical Approach/ Mission Understanding</b>	Acceptable	Outstanding
<b>Total Evaluated Price</b>	\$279,599,672	\$247,651,066

FODD at 78.

Although the overall technical ratings for Culmen’s proposal did not change, the agency assigned the proposal an additional strength and removed a weakness under the management/staffing subfactor following the technical interchanges.<sup>4</sup> *Id.* at 37. Specifically, in addition to two strengths assigned under the subfactor during the initial evaluation--for Culmen’s strategy to fill vacancies faster than the PWS required and for its 100 percent employer-paid medical, vision, and dental benefits--the agency assigned Culmen’s proposal a third strength for proposing a deputy program manager at no direct cost. *Id.* at 20-21, 37. The agency assigned Culmen’s proposal no weaknesses or deficiencies under the subfactor and no strengths, weaknesses, or deficiencies under the technical approach/mission understanding subfactor. *Id.* at 38.

As a result of the pricing interchanges, Culmen submitted a new price proposal that resulted in its total evaluated price increasing from \$230,425,328 to \$279,599,672. See FODD at 7, 78. The FODD explained that despite Culmen’s updated pricing, the direct labor rates were still “somewhat lower” for 18 of the 38 positions. *Id.* at 73. Because the direct labor rates presented a risk to the agency, the agency considered the fringe benefits in Culmen’s professional compensation plan to determine whether its total

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<sup>4</sup> The solicitation defined a strength as an aspect of the offeror’s proposal that has merit or exceeds performance or capability requirements in a way that would be advantageous to the agency during contract performance. FOPR at 67. The solicitation defined a weakness as a flaw in the proposal that increases the risk of unsuccessful contract performance. *Id.* The solicitation defined a deficiency as a material failure of the proposal to meet an agency requirement that increases the risk of unsuccessful contract performance to an unacceptable level. *Id.*

compensation was realistic. *Id.* at 74. The agency concluded that the total compensation package was realistic despite the direct labor rates appearing to be unrealistically low on their own. *Id.*

Based on its evaluation of proposals, the agency concluded that Amentum's proposal represented the best value to the agency. *Id.* at 80. The agency issued an unsuccessful offeror letter to Culmen on September 6. AR, Tab 11, Unsuccessful Offeror Letter at 1. Culmen timely requested a debrief, which the agency provided on September 10. AR, Tab 12, Debrief at 1. Culmen submitted a question in response to the debrief on September 12, to which the agency responded on September 16. AR, Tab 13, Culmen Debrief Questions at 1; AR, Tab 14, Agency Response to Debrief Questions at 1. This protest followed.<sup>5</sup>

## DISCUSSION

Culmen argues that the agency engaged in misleading discussions, which improperly caused Culmen to believe that its total professional compensation and direct labor rates were unrealistically low. Protest at 9-11. Culmen also contends that the agency coerced Culmen into increasing its direct labor rates. *Id.* at 11. Concerning the technical evaluation, Culmen argues that the agency unreasonably evaluated its proposal under both the management/staffing subfactor and the technical approach/mission understanding subfactor by failing to assign Culmen's proposal additional strengths under these subfactors. *Id.* at 12-15. Finally, Culmen argues that the best-value tradeoff was unreasonable as a result of these purported evaluation errors. *Id.* at 15-16. For reasons discussed below, we deny the protest.<sup>6</sup>

### Challenge to the Agency's Discussions

The regulations concerning discussions under FAR part 15, which pertain to negotiated procurements, do not, as a general rule, govern task and delivery order competitions conducted under FAR part 16, such as the procurement for the task order here. *Vencore Servs. & Sols., Inc.*, B-412949, B-412949.2, July 18, 2016, 2016 CPD ¶ 346 at 5. In this regard, FAR section 16.505 does not establish specific requirements for discussions in a task order competition; nonetheless, when exchanges with the agency occur in task order competitions, they must be fair and not misleading. *Id.* In discussing an agency's obligations in conducting discussions under FAR part 15, we have explained that an agency may not mislead an offeror into responding in a manner that does not address the agency's concerns or misinform the

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<sup>5</sup> Our Office is authorized to hear protests of task orders that are issued under multiple-award IDIQ contracts established within defense agencies where the task order is valued in excess of \$25 million. 10 U.S.C. § 3406 (f)(1). We have jurisdiction to hear the subject protest as the task order is valued in excess of \$25 million.

<sup>6</sup> Although we do not address every argument raised by the protester, we have considered them and find none to be meritorious.

offeror concerning a problem with its proposal or about the agency's requirements. *Id.* That said, we will not find that the agency engaged in misleading discussions where the agency accurately raised evaluation concerns. *General Dynamics Info. Tech., Inc., B-417616.2 et al.*, Mar. 31, 2020, 2020 CPD ¶ 132 at 12.

Culmen first alleges that the agency engaged in misleading discussions when it stated that Culmen's total professional compensation was unrealistic. Protest at 9. According to Culmen, this statement was misleading because the agency "actually only ever determined" that Culmen's direct labor rates were unrealistic. *Id.* The agency responds that discussions were not misleading because the record supports its conclusion that Culmen's total professional compensation was unrealistic. Memorandum of Law (MOL) at 9-11.

Based on the record, we have no basis to conclude that the agency engaged in misleading discussions. As mentioned above, when addressing a protest ground that the agency engaged in misleading discussions, the relevant inquiry is whether the agency accurately raised evaluation concerns. See *General Dynamics Info. Tech., Inc., supra*. The pricing interchange notice provided that the "total professional compensation . . . appears to be unrealistically low" and listed each of the positions with unrealistic labor rates. AR, Tab 7, Pricing Interchange Notice and Culmen Response at 5. The notice further noted that Culmen's proposal failed to provide "sufficient detail to address or explain this discrepancy." *Id.* Given these unrealistic direct labor rates, the agency informed Culmen that its compensation may fail to comply with FAR provision 52.222-46, which could result in the removal of Culmen's proposal from the competition.<sup>7</sup> *Id.*

Although Culmen responds that the agency essentially ignored its proposed fringe benefits in concluding that Culmen's proposed total professional compensation was unrealistic, see Comments at 4 (stating that the agency evaluated direct labor rates "in a vacuum"), this assertion is unsupported by the record. In this regard, the record demonstrates that the agency specifically reviewed Culmen's proposed fringe benefits package when it explained in its source selection decision that the fringe benefits "would help to justify salaries that on their own may have otherwise appeared to be unrealistically low." FODD at 51. This analysis clearly reflects that the agency considered the entirety of Culmen's total professional compensation and not simply direct labor rates as the protester contends. After considering the entirety of Culmen's proposed total professional compensation, the agency concluded that it was unrealistic and appropriately raised the concern to Culmen. Accordingly, this protest ground is denied.

Culmen also contends that the agency unreasonably coerced Culmen into increasing its direct labor rates. Protest at 11. The agency responds that it did not coerce Culmen as it never directed or requested that Culmen raise its direct labor rates; instead, it asked

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<sup>7</sup> FAR provision 52.222-46 provides, in relevant part, that unrealistic professional compensation levels may result in the elimination of the proposal from the competition.

Culmen to explain the basis for its proposed labor rates and left the ultimate response to Culmen's independent business judgment. MOL at 12.

An agency may not coerce an offeror into raising its prices or altering any other aspect of its proposal. *General Dynamics Info. Tech., Inc., supra*. That said, our Office will not find coercion in discussions where the agency, in good faith, provides accurate information to an offeror and leaves it to the offeror's discretion regarding how to respond. See *id.* at 12-13 (concluding that there was no coercion in discussions where the agency did not "mandate, or require, that [the protester] raise its direct labor rates"). We have no basis to conclude that the agency's discussions were coercive. The pricing interchange notice requested that Culmen provide a basis for the estimate of its direct labor rates and revise its pricing sheet. AR, Tab 7, Pricing Interchange Notice and Culmen Response at 5. At no point did the agency direct Culmen to increase its direct labor rates. The agency instead left it to Culmen's independent business judgment to decide how it wanted to "revise" its proposal. In sum, we find no merit to the protester's argument and this protest ground is denied.

#### Challenge to the Evaluation of Culmen's Technical Proposal

Culmen next challenges the agency's evaluation of its proposal under both technical subfactors. Protest at 12-15. Specifically, Culmen alleges that the agency unreasonably failed to assign its proposal several strengths under these subfactors. See *id.* The agency, in response, contends that the evaluation was reasonable and in accordance with the terms of the solicitation. See MOL at 15-28.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals or substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *General Dynamics Info. Tech., Inc.*, B-421290, B-421290.2, Mar. 1, 2023, 2023 CPD ¶ 60 at 4. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was unreasonable. *Id.*

#### Management/staffing subfactor

Culmen first argues that the agency failed to assign its proposal a strength for its "dedicated [t]ransition [m]anager." Protest at 12. According to Culmen, this aspect of its proposal deserves a strength because proposing a dedicated transition manager will, among other things, allow the program manager to focus on other mission objectives. *Id.* This "dedicated role," Culmen argues, exceeded the requirement of the solicitation. *Id.* The agency responds that it did not assign Culmen's proposal a strength for the dedicated transition manager because it was simply part of Culmen's strategy to ensure



a seamless transition of the workforce, which was a requirement of the solicitation.<sup>8</sup> MOL at 16.

Based on the record, we have no basis to object to the agency's decision not to assign a strength for Culmen's proposed transition manager. Under the management and staffing subfactor, the agency was to evaluate, among other things, the "strategies and processes the contractor will use during transition" to ensure operational performance at the start of the contract. FOPR at 271. As the agency points out, Culmen's decision to propose a transition manager was part of Culmen's strategy to meet this requirement. MOL at 16. Although Culmen contends that it exceeded the FOPR's requirements by proposing this manager, Comments at 8, the agency did not find that providing one exceeded the requirement to ensure a seamless transition of the workforce. Instead, proposing a manager to oversee transition activities was, as the agency argues, Culmen's strategy to meet the requirement and an "expected portion of any offeror's proposal." MOL at 15. Accordingly, we deny this ground of protest.

Culmen also argues that the agency unreasonably failed to assign its proposal a strength for proposing monthly videocalls and semi-annual site visits by various managers/executives to promote improved communication across multiple performance locations. Protest at 13. Although the agency contends that this aspect of Culmen's proposal was its strategy for meeting the requirements, MOL at 19, Culmen responds that the agency "abdicated [its] responsibility" to evaluate whether the strategy exceeded the requirements or otherwise explain why it did not warrant a strength. Comments at 9-10.

We conclude that the record provides no basis to object to the agency's evaluation. As relevant here, the solicitation required offerors to describe their strategy for managing personnel. FOPR at 271. The PWS further provided that the program manager "shall travel independently worldwide . . . to manage performance." AR, Tab 4, PWS at 8. Culmen's strategy fits squarely within these requirements. For instance, Culmen's proposed semiannual site visits by the program manager would appear to meet the requirement to provide a strategy for managing personnel as well as the requirement for the program manager to travel worldwide to manage performance. *See id.* We also agree with the agency that there is "nothing exceptional or notable about monthly videocalls." MOL at 20. This aspect of Culmen's proposal is simply its strategy for meeting the requirements of the solicitation; as such, by definition, it does not warrant a strength.

Culmen next contends that the agency should have assigned its proposal a strength for proposing "a robust [a]ward and [i]ncentive [p]lan that would increase overall employee compensation and inevitably retain talent." Protest at 13. The agency again responds that it did not assign Culmen's proposal a strength for this aspect of its proposal because it simply met the requirements of the solicitation. MOL at 21. We agree.

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<sup>8</sup> We do not address every argument raised by the protester under this subfactor; instead, we have selected three of the four arguments as representative examples.

Under this subfactor, the solicitation required offerors to describe “compensation packages and any incentives to minimize turnover and retain highly qualified personnel.” FOPR at 271. The agency reasonably concluded that Culmen’s plan to retain talent did not warrant a strength because it proposed to accomplish precisely what the solicitation required--namely, describe its compensation package and incentives.

#### Technical approach/mission understanding subfactor

Under the technical approach/mission understanding subfactor, Culmen argues that it should have received two strengths for its counterthreat finance training curriculum and its “smart-analytic tools” respectively. Protest at 14-15. The agency responds that Culmen has not demonstrated that the agency’s evaluation was unreasonable, and that it offers only disagreement with the agency’s conclusions. MOL at 25-27. We agree. For both protest grounds, Culmen provides excerpts from its proposal and essentially asks our Office to reevaluate its proposal in those areas. See Protest at 14-15. For instance, in challenging the agency’s failure to assign its proposal a strength for its counterthreat finance training curriculum, Culmen provides a portion of its proposal and contends that a reasonable agency evaluation would have “recognized the obvious benefit” of the cited curriculum. *Id.* Regarding the evaluation of its smart-analytic tools, Culmen argues not that the agency overlooked these tools, but rather that the agency “failed to adequately account for their benefit.” *Id.* at 15. Culmen does not provide any support for these assertions other than the fact that its proposal did not receive strengths in these areas. See *id.* at 14-15. Such assertions are conclusory and fail to identify any errors in the evaluation. Accordingly, these protest grounds are denied.

#### Challenge to the Best-Value Tradeoff Decision

In its final challenge, Culmen argues that the agency’s best-value tradeoff decision was unreasonable due to the purported errors discussed above. Protest at 15-16. We deny this protest ground.

As an initial matter, we note that 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, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. *Integrity Mgmt. Consulting, Inc.*, B-418776.5, June 22, 2021, 2021 CPD ¶ 245 at 10. In reviewing an agency’s source selection decision, we examine the record to determine if it was reasonable and consistent with the evaluation criteria and applicable procurement statutes and regulations. *Id.*

Culmen’s challenge to the best-value tradeoff decision is derivative of its earlier protest grounds that we have denied. Accordingly, we deny this challenge as it presupposes unproven agency errors and thus, does not establish a basis to sustain the protest.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel