



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

## Decision

**Matter of:** Zeva Incorporated

**File:** B-423013; B-423013.2

**Date:** January 2, 2025

---

James M. Black, II, Esq., Falcon Rappaport & Berkman, LLP, for the protester.  
David R. Warner, Esq., Heather Mims, Esq., Tyler J. Freiberger, Esq., Warner, PLLC, for BruckEdwards, Inc., the intervenor.  
Seeta Rebbapragada, Esq., and Richard L. Hatfield, Esq., Department of the Treasury, for the agency.  
Thomas J. Warren, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

Protester is not an interested party to challenge the issuance of a task order where the protester fails to challenge a deficiency that led to its quotation being evaluated as technically unacceptable and therefore ineligible for award.

---

### DECISION

Zeva Incorporated, a small business of Oakton, Virginia, protests the issuance of a task order to BruckEdwards, Inc., a small business of Reston, Virginia, under request for quotations (RFQ) No. 2032H5-24-Q-00147, issued by the Department of Treasury, Internal Revenue Service (IRS), for technical and programmatic support services. The protester contends that both the agency's evaluation of Zeva's quotation and the resulting award decision were improper.

We dismiss the protest because Zeva is not an interested party.

### BACKGROUND

The requirement solicited here concerns technical support services to assist the IRS with establishing secure, agency-wide personal identity verification (PIV) credentials. By way of background, in 2004, President George W. Bush issued Homeland Security Presidential Directive-12 (HSPD-12), requiring federal agencies to implement a universal identification standard for all federal employees and contractor personnel. AR, Tab D3, RFQ Performance Work Statement (PWS) at 5. These standards were

established to ensure secure and reliable forms of identification for access to all federal facilities and information technology security systems, and included, among other things, the requirement to establish secure PIV credentials such as access cards. *Id.*

On July 30, 2024, the IRS issued the RFQ to obtain technical services to support the implementation of an enterprise-wide solution for PIV credentials to be used throughout the agency in compliance with HSPD-12. *Id.* at 5-7. To obtain this support, the IRS issued the RFQ to holders of General Services Administration Federal Supply Schedule contracts under Multiple Award Schedule 54151S (Information Technology Schedule), pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 8.4. *Id.*; Contracting Officer's Statement (COS) at 1-2. The solicitation contemplated the issuance of a fixed-price task order for a 12-month base period with four 12-month option periods. AR, Tab D3, RFQ PWS at 7-8. The RFQ established that task order award would be made on a best-value tradeoff basis, using four evaluation factors, listed in descending order of importance: (1) technical approach; (2) corporate experience; (3) past performance; and (4) price. AR, Tab D1, RFQ Instructions at 5; COS at 2

As relevant to this protest, under the technical approach factor, the RFQ instructed vendors that quotations should "[a]ddress each requirement" in the PWS and demonstrate an approach "proving the ability to deliver and comply with the full range of services described in the RFQ's PWS." AR, Tab D1, RFQ Instructions at 5-6. The agency also informed vendors that the agency would assess whether the vendor "has and will position appropriate personnel," and instructed vendors to "submit the name and resume of the [c]ontractor employee proposed" for positions identified in the RFQ as "key personnel."<sup>1</sup> See *id.*; see also AR, Tab D3, RFQ PWS at 24.

For the technical approach factor, the solicitation explained that quotations would be evaluated using adjectival ratings as follows: excellent, good, acceptable and unacceptable. AR Tab D1, RFQ Instructions at 6. The RFQ also outlined seven "mandatory criteria for evaluation" identified as go/no go requirements. *Id.* at 4. Further, the RFQ stated that a quotation rated "unacceptable" under any of the evaluation criteria would not be eligible for award and would be excluded from further consideration. *Id.*

Two vendors, Zeva and BruckEdwards, submitted quotations in response to the RFQ. AR, Tab I, Award Decision at 2. After completing its evaluation of the two quotations, the agency assigned Zeva's quotation a rating of "unacceptable" under the technical approach factor. AR, Tab H, Technical Evaluation Report at 2. On September 20, the agency issued the task order award to BruckEdwards and notified Zeva that same day. COS at 2.

---

<sup>1</sup> The RFQ informed vendors that the "[c]ontractor shall submit the name and resume of the [c]ontractor employee proposed in each [k]ey [p]osition," and that [p]roposed resumes will be reviewed and qualifications verified." AR, Tab D3, RFQ PWS at 23-24.

On September 23, the agency provided Zeva with a brief explanation of award in accordance with FAR 8.405-2(d) and informed Zeva that the agency had evaluated Zeva's quotation as "unacceptable" under the technical approach factor. AR, Tab L, Brief Explanation Correspondence at 3-4. After Zeva requested additional information about the rationale for this rating, the agency responded with a summary of the weaknesses and deficiencies identified in Zeva's technical approach quotation. *See id.* This protest followed.

## DISCUSSION

Zeva's protest raises numerous challenges to the reasonableness of the agency's decision to assign Zeva's quotation a rating of "unacceptable" under the technical approach factor. For example, the protester argues that the agency unfairly faulted Zeva for being overly reliant on subcontractor support. Protest at 2. Zeva also contends that the agency failed to recognize Zeva's expertise in PIV card issuance and lifecycle management and failed to credit Zeva's experience as an "industry leader" in HSPD-12 technical support. *Id.* at 2-4.

In response to Zeva's protest allegations, the agency produced the full record of the agency's evaluation of Zeva's quotation. *See* AR, Tab H, Technical Evaluation Report. As included in the agency report, the agency's technical evaluation identified numerous specific weaknesses and deficiencies--many of which were not identified in the brief explanation for award the agency had previously provided Zeva. *Compare id.* at 3-4 *with* AR, Tab L, Brief Explanation Correspondence at 1. For example, the agency's technical evaluation report identified additional deficiencies in Zeva's technical approach, including multiple areas where Zeva received a rating of "no-go," under the go/no-go mandatory criteria, or otherwise failed to fully address requirements of the PWS. *See* AR, Tab H, Technical Evaluation Report at 3-4.

After receiving the agency report, the protester filed comments and raised supplemental protest challenges to the agency's assessment of several identified deficiencies and to Zeva's assigned "no go" ratings. *See* Comments & Supp. Protest at 5-9. The agency responded to each new protest allegation in its supplemental agency report--but requested summary dismissal based on Zeva's failure to challenge all of the deficiencies that led to Zeva's rating of unacceptable under the technical approach factor. Supp. Memorandum of Law (MOL) at 5-9.

Specifically, the agency argues that Zeva is not an interested party to maintain this protest because Zeva failed to challenge the agency's assessment of a "key resource deficiency" in Zeva's quotation to fill the HSPD-12 subject matter expert role, a position identified in the RFQ as "[k]ey [p]ersonnel." *Id.* at 7-8; AR, Tab H, Technical Evaluation Report at 4; *see also* AR, Tab D3, RFQ PWS at 23-24. The agency evaluators found that the resume Zeva submitted for the role lacked evidence of "experience in PIV user lifecycle management, to include . . . ensuring credentialing processes and procedures adhere to Federal standards," nor did it include "experience with all [identity and access management] core products listed in [the] PWS." AR, Tab H, Technical Evaluation

Report at 4; see *also* AR, Tab 1C, Zeva Tech. Quotation, Mgmt. Approach Vol. at 10-11 (resume of proposed subject matter expert). The agency also included, with the agency report, a statement from the technical evaluation team chairperson indicating that the agency evaluated Zeva's technical approach as "unacceptable" due to four separate issues, including Zeva's "failure to propose an HSPD-12 [s]ubject [m]atter [e]xpert that satisfie[d] all of the minimum requirements for the position." AR, Tab O, Technical Evaluation Team Statement at 4. Because Zeva failed to advance a protest allegation challenging this independent basis for Zeva's rating of unacceptable under the technical approach factor, the agency argues that Zeva is not an interested party to maintain this protest.<sup>2</sup> Supp. MOL at 7-8.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3557, only an "interested party" may protest a federal procurement. 31 U.S.C. § 3552. As a result, for a protest to be considered by our Office, a protester must be an interested party, that is, an actual or prospective vendor whose direct economic interest would be affected by the award or failure to award a contract. 31 U.S.C. § 3551(2)(A); 4 C.F.R. §§ 21.0(a)(1), 21.1(a); *Trailboss Enterprise, Inc.*, B-419209, Dec. 23, 2020, 2020 CPD ¶ 414 at 8. Generally, to have the requisite economic interest to maintain a protest, the protester must demonstrate that it would be in line for award if its protest allegations were sustained. *Kearney & Company, PC*, B-420331, B-420331.2, Feb. 4, 2022, 2022 CPD ¶ 56 at 11-12.

Here, we find the record supports the agency's assertion that Zeva did not challenge the evaluation of the deficiency assessed in Zeva's quotation for failing to demonstrate required resume qualifications for the HSPD-12 subject matter expert position. Zeva contends that it did challenge this deficiency, pointing broadly to a reference in its initial protest to the "qualifications and experience" of its HSPD-12 subject matter expert. See Comments & Supp. Protest at 4-5. But as the agency rightly notes, the agency did not provide Zeva with the record of the applicable deficiency until the agency submitted Zeva's technical evaluation report as part of the agency report; Zeva then failed to raise a timely supplemental protest challenge to this independent basis for Zeva's rating of unacceptable. See Supp. MOL at 1, 6-7; see *also* Comments and Supp. Protest at 1-9. In sum, neither Zeva's initial protest nor its supplemental protest challenged the agency's determination that the resume Zeva submitted for its HSPD-12 subject matter expert failed to satisfy the minimum requirements of the PWS.<sup>3</sup>

---

<sup>2</sup> The agency also notes that it specifically argued, in its initial memorandum of law, that Zeva's HSPD-12 subject matter expert resume deficiencies rendered Zeva's quotation "technically unacceptable and unawardable"--and yet the protester did not challenge this aspect of the agency's determination that Zeva's quotation was unacceptable and thus unawardable. Supp. MOL at 6-7.

<sup>3</sup> In its comments on the supplemental agency report filed on December 2, Zeva argues against dismissal but then raises, for the first time, specific challenges to the agency's determination that Zeva's resume for the HSPD-12 subject matter expert lacked specific information required by the RFQ. See Supp. Comments at 4-5. Because the agency  
(continued...)

The solicitation here stated that if a quotation “fails to meet performance or capability standards,” the quotation would receive a rating of “unacceptable,” rendering the quotation “unawardable.” AR, Tab D1, RFQ Instructions at 6. Further, the RFQ expressly established that a rating of “unacceptable” under any factor would render the quotation “ineligible for award” and excluded from further consideration. *Id.* at 4. In addition, where, as here, a solicitation requires resumes for key personnel, these form a material requirement of the solicitation. *Horizon Industries, Ltd.*, B-421663 *et al.*, Aug. 10, 2023, 2023 CPD ¶ 198 at 4. It is a fundamental principle that a proposal or quotation that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis of award. *See id.*; *Wyle Laboratories, Inc.*, B-412964, B-412964.3, May 27, 2016, 2016 CPD ¶ 144 at 7-8.

As noted above, Zeva’s quotation was found unacceptable under the technical approach factor based on four separately identified deficiencies, including the “failure to propose an HSPD-12 [s]ubject [m]atter [e]xpert that satisfies all of the minimum requirements for the position.” AR, Tab O, Technical Evaluation Team Chair Declaration at 4. Because the protester failed to challenge the IRS’s determination that Zeva’s quotation was unacceptable based on Zeva’s failure to include required resume information for this key personnel position, Zeva would not be in line for award even if its protest were sustained. The protester, therefore, lacks the direct economic interest necessary to be an interested party to protest the evaluation of its quotation or the resulting award decision. 4 C.F.R. § 21.0(a)(1); *AIS Engineering, Inc.*, B-420431.2, Jan. 19, 2022, 2022 CPD ¶ 35 at 4.

The protest is dismissed.

Edda Emmanuelli Perez  
General Counsel

---

provided Zeva with the rationale for this deficiency in the initial agency report filed on October 31, however, any allegations raised by Zeva in its December 2 supplemental comments are untimely because they were filed more than 10 days after October 31. 4 C.F.R. § 21.2(a)(2).