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## Decision

**Matter of:** Attesa Group, LLC

**File:** B-423096

**Date:** January 16, 2025

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Franklin C. Turner, Esq., Alexander W. Major, Esq., Michael A. Richard, Esq., and Philip Lee, Esq., McCarter & English, LLP, for Nakupuna Services LLC, the intervenor.

Cheryl Mpande, Esq., Millennium Challenge Corporation, for the agency.

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

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### DIGEST

Protest challenging the agency's evaluation of proposals is denied where the agency's evaluation was generally reasonable, adequately documented, and in accordance with the terms of the solicitation, and, to the extent any errors were made, such errors were not competitively prejudicial to the protester.

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### DECISION

Attesa Group LLC, an 8(a) small business of San Antonio, Texas, protests the award of a contract to Nakupuna Services LLC, an 8(a) small business of Arlington, Virginia, under request for proposals (RFP) No. 95332424R0003, which was issued by the Millennium Challenge Corporation (MCC), for acquisition support for the agency's Contracts and Grants Management Division.<sup>1</sup> The protester challenges the evaluation of the protester's proposal, and the resulting award decision.

We deny the protest.

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<sup>1</sup> Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes the Small Business Administration to enter contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. Federal Acquisition Regulation (FAR) 19.800.

## BACKGROUND

The Millennium Challenge Act of 2003 authorizes MCC to award personal services contracts as defined by FAR sections 2.101 and 37.104, and as necessary to meet the agency's mission. 22 U.S.C. § 7713(a)(8); Agency Report (AR), Tab 4, RFP amend. 1 at 82.<sup>2</sup> The RFP, which was issued on May 29, 2024, and subsequently amended once, sought proposals for the establishment of an indefinite-quantity, indefinite-delivery (IDIQ) contract for the provision of personal services to provide federal acquisition and assistance support services to supplement the federal staff of MCC's Contracts and Grants Management Division. RFP amend. 1 at 79, 82. The RFP anticipated the establishment of a single IDIQ contract with a single base year and four, 1-year options. *Id.* at 79. The RFP also contemplated that orders would be issued on a time-and-materials basis up to a total ceiling of \$33 million. *Id.*; AR, Tab 22, Business Clearance Memorandum at 408.

Award was to be made on a best-value tradeoff basis, considering three factors, which are listed in descending order of importance: (1) technical approach; (2) corporate capabilities; and (3) price. RFP amend. 1 at 107. The non-price factors, when combined, were more important than price. *Id.* Additionally, the technical approach factor included four subfactors, which are listed in descending order of importance: (a) recruitment and staffing capabilities; (b) retention of staff; (c) resumes, professional reference, and commitment letters; and (d) past performance. *Id.* Only the recruitment and staffing capabilities and retention of staff subfactors are relevant to the issues presented in the protest.

Under the recruitment and staffing capabilities subfactor, offerors were to be evaluated based on their respective demonstrated ability to rapidly recruit and staff existing vacancies, including finding potential candidates and adequately pre-screening candidates for technical, computer, and interpersonal skills. *Id.*

Under the retention of staff subfactor, offerors were to be evaluated based on their respective demonstrated abilities to retain both the existing incumbent personnel and new personnel recruited to the contract, including: (a) incumbent staff engagement and retention strategy; (b) a detailed breakdown of competitive benefits and salary (including all fringe benefits offered to personnel, such as insurance policies, paid-time-off policies, and other compensation elements); (c) internal retention strategies and incentive plans; and (d) engagement with on-site personnel and agency management to proactively address and minimize potential sources of turnover. *Id.* at 108.

The RFP contemplated that the agency would conduct the procurement in three phases. In the first phase, the agency evaluated corporate capabilities, and the agency

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<sup>2</sup> References herein to page numbers are to the Bates numbering of the documents produced in the agency's report.

received 62 phase I proposals, including from Attesa and Nakupuna.<sup>3</sup> AR, Tab 22, Business Clearance Memorandum at 415-16. Following initial compliance reviews and the phase I evaluation, the agency issued advisory “down-select” notices to offerors that were not evaluated as being among the most highly rated, and 13 offerors, including Attesa and Nakupuna, were invited to participate in phase II. *Id.* at 417.

In phase II, the agency evaluated offerors’ technical approach and price proposals. RFP amend. 1, at 102-03. As with the phase I evaluation, the agency provided advisory down-selection notices to those offerors that were not evaluated as being among the most highly rated, and invited six offerors, including Attesa and Nakupuna, to participate in phase III. AR, Tab 22, Business Clearance Memorandum at 418.

In phase III, offerors were invited to give an oral presentation to expound and highlight their corporate capabilities, technical approach, and price. RFP amend. 1 at 104. The RFP provided that the presentation should demonstrate the offeror’s subject matter expertise by discussing its technical understanding and ability to satisfy the government’s requirements. *Id.*

The final overall ratings and prices for the remaining six offerors were as follows:

	<b>Overall Technical</b>	<b>Price</b>
<b>Nakupuna</b>	Outstanding	\$25,240,719
<b>Offeror A</b>	Outstanding	\$27,050,068
<b>Offeror B</b>	Excellent	\$25,245,006
<b>Offeror C</b>	Satisfactory	\$19,758,349
<b>Offeror D</b>	Satisfactory	\$20,117,293
<b>Attesa</b>	Satisfactory	\$23,322,537

AR, Tab 22, Business Clearance Memorandum at 427-28.

Relevant here, the final phase II and III ratings for Attesa and Nakupuna were as follows:

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<sup>3</sup> Attesa is a joint venture between Dynamic Pro, Inc., the incumbent contractor, and GZO, Inc. See AR, Tab 12, Attesa Tech. Proposal at 217.

	<b>Attesa</b>	<b>Nakupuna</b>
<b>Phase I – Corporate Capabilities</b>	Satisfactory	Satisfactory
<b>Phase II – Technical Approach</b>	Excellent	Excellent
<b>Phase II – Subfactor 1 – Recruitment &amp; Staffing Capabilities</b>	Excellent	Excellent
<b>Phase II – Subfactor 2 – Retention of Staff</b>	Excellent	Excellent
<b>Phase II – Subfactor 3 – Resumes, Professional References, &amp; Commitment Letters</b>	Excellent	Excellent
<b>Phase II – Subfactor 4 – Past Performance</b>	Low Risk	Low Risk
<b>Phase III – Oral Presentation</b>	Satisfactory	Outstanding

*Id.* at 417-19.

Nakupuna’s proposal was ultimately selected as offering the best value to the government based upon it having the highest-rated technical proposal and the agency’s assessment that the proposal offered significant additional benefit and value to the government as compared to the three lower-rated, lower-priced proposals, including Attesa’s proposal. *Id.* at 427.

## DISCUSSION

Attesa challenges the agency’s assessment of three weaknesses resulting from the protester’s phase III oral presentation.<sup>4</sup> But for these alleged errors, the protester contends that its proposal would have been more favorably evaluated and, thus, the agency may have reached a different tradeoff decision based on the protester’s lower proposed price. The agency defends the reasonableness of its evaluation, arguing that its evaluation was adequately documented, reasonable, and in accordance with the terms of the solicitation. For the reasons that follow, we find no basis on which to sustain the protest.<sup>5</sup>

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<sup>4</sup> The protester initially raised a number of additional objections, including challenging the agency’s past performance evaluation and alleging that the tradeoff was inadequately documented, but it subsequently withdrew those allegations. Attesa Comments at 5.

<sup>5</sup> The protester raises a number of collateral arguments. Although our decision does not specifically address each argument, we find that none provides a basis on which to sustain the protest. For example, the protester generally objects to the lack of contemporaneous documentation from the phase III oral presentations. *See, e.g.*, Attesa Supp. Comments at 1-2. We find no basis to sustain the protest on those grounds. The FAR requires that the contracting officer “shall maintain a record of oral presentations to document what the Government relied upon in making the source selection decision,” and “[t]he method and level of detail of the record (*e.g.*, videotaping, audio tape recording, written record, Government notes, copies of offeror briefing slides or presentation notes) shall be at the discretion of the source selection authority.”

(continued...)

When reviewing a protest challenging an agency's evaluation, we do not reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *L3 Security & Detection Sys., Inc.*, B-417463, B-417463.2, July 8, 2019, 2019 CPD ¶ 248 at 4. Rather, we will review the record to determine whether the evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes or regulations. *Computer World Servs. Corp.*, B-410513, B-410513.2, Dec. 31, 2014, 2015 CPD ¶ 21 at 6. Furthermore, in a negotiated procurement as conducted here, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows for meaningful review by the procuring agency. *ARBEIT, LLC*, B-411049, Apr. 27, 2015, 2015 CPD ¶ 146 at 4.

Attesa first challenges the weakness assigned to its proposal for the proposed use of a "three strike rule" for performance management. Specifically, the agency, while noting that Attesa proposed that its senior contract specialists would have "heavy involvement in correcting poor performance or behaviors," nevertheless was concerned that the protester's proposed "three strike" policy before removing a poorly performing individual "may not be realistic, especially for new [individuals], depending on how egregious their performance failures are." AR, Tab 22, Business Clearance Memorandum at 421. Attesa contends that this weakness is unreasonable because it merely assumes that the protester would not take more aggressive steps to remove a severely underperforming individual, and further argues that its approach warranted a strength for its beneficial impact on employee retention.

Contrary to the protester's position, however, there is nothing in the contemporaneous record demonstrating that different performance management approaches would be applied other than the proposed "three strike" policy. In this regard, the "three strike" policy addressed during the oral presentation appears consistent with Attesa's contemporaneous PowerPoint presentation slides. Specifically, under the heading "performance management, annual evaluations," Attesa represented that "[a]fter performance is assessed, if there is a specific area that requires improvement, the [senior contract specialist] will work with the [individual] to implement an action plan."

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FAR 15.102(e). Here, the record includes both the offerors' presentation slides (see, e.g., AR, Tab 12, Attesa Tech. Proposal) as well as a detailed contemporaneous consensus evaluation report summarizing the agency's observations with respect to the offerors' presentations (see AR, Tab 21, Consensus Eval. Report). As reflected herein, while the resolution of this protest would have been aided by a contemporaneous audio or visual recording or transcription of the oral presentation, we find no basis to conclude that the agency's chosen method for recording and level of detail summarizing the presentations was inconsistent with the requirements of the FAR. See, e.g., *Strategic Res., Inc.*, B-419151, Dec. 11, 2020, 2020 CPD ¶ 399 at 8 (denying protest challenging adequacy of oral presentation record comprised of offeror presentation slides and evaluator notes).

AR, Tab 12, Attesa Tech. Proposal at 230. Next, under the heading “performance management, ongoing,” the protester represented that “[if] the assigned Director requests improvements in a specific area, the [senior contract specialist] gathers examples and discusses them with the [individual] via a one-on-one meeting, if possible.” *Id.* The slide further provides that “[i]n the rare occasion that a performance issue persists, the [senior contract specialist] will meet with the [individual] to discuss the ongoing issues and obtain agreement on the solutions, actions, expectations, and timeline,” and the protester “tracks the [individual’s] progress over time.” *Id.*

Nothing in the contemporaneous proposal suggests that the protester will utilize different performance management approaches based on the egregiousness of an individual’s poor performance. In this respect, while the protester’s protest submissions attempt to more clearly articulate the protester’s approach to performance management, our review is limited to Attesa’s proposal, as submitted. *Patriot Def. Grp., LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 9. We have recognized that agencies are not responsible for evaluating information that is not included in a proposal. *Patriot Def. Grp., LLC, supra*. Absent some meaningful basis where in its contemporaneous proposal it addressed its approach to performance management outside of its proposed “three strike” policy, we have no basis to object to the agency’s evaluation.

Next, Attesa challenges the weakness assigned to its proposal for only offering its personnel one health insurance option. Specifically, the agency represented that prior to the issuance of the solicitation it conducted a survey of personnel of one of Attesa’s joint venturers performing the incumbent requirements, and some of the respondents expressed concerns over the limited number of available health insurance options. AR, Tab 21, Consensus Eval. Report at 401. The agency, in a sworn declaration executed by both the contracting officer and technical evaluation panel chairperson, represents that the agency inquired during the oral presentation regarding the number of available health insurance options proposed by Attesa and the protester represented that it would only offer one option. See Joint Decl. of Contracting Officer & Tech. Eval. Panel Chairperson ¶¶ 6-7. The evaluators subsequently assigned a weakness based on the single insurance offering. AR, Tab 21, Consensus Eval. Report, at 401.

Attesa contests the assigned weakness as unreasonable and inconsistent with its proposed approach. In its initial protest, the protester alleged that it was unreasonable for the agency to rely on a “secret survey of [incumbent employees],” the number of health insurance and retirement plans was not a stated evaluation factor, and the agency failed to consider the low turnover rate experienced on the incumbent contract. Protest at 8. In its comments, the protester made additional arguments. In addition to repeating its argument that the agency failed to consider the alleged low turnover rate on the incumbent contract, the protester--for the first time--alleged that the protester in fact has historically offered at least two health insurance options. See Attesa Comments at 3; *id.*, Exh. 1, Decl. of Chief Exec. Officer of Joint Venturer ¶¶ 6-8. The protester also asserts that--contrary to the rebuttal declaration subsequently submitted by the agency--“[n]o one from [the agency] asked any specific questions on [the

incumbent contractor's] health insurance options." *Id.*, Exh. 1, Decl. of Chief Exec. Officer of Joint Venturer ¶ 5.

As an initial matter, we note that the protester did not originally proffer its declaration asserting that it in fact has historically offered (and ostensibly intends to prospectively offer) multiple health insurance options to its employees with its initial protest, notwithstanding its concession that it learned "[d]uring the debriefing" about "the existence and the results of [the incumbent] survey" and that the incumbent staff "expressed a desire to have more options for health insurance and retirement plans."<sup>6</sup> Protest at 8. The protester's failure to timely marshal its evidence raises significant concerns regarding its piecemeal development of the protest.

Our Bid Protest Regulations do not contemplate the piecemeal presentation or development of protest issues; when a protester raises a broad ground of protest in its initial submission but fails to provide details within its knowledge until later, so that a further response from the agency would be needed to adequately review the matter, these later issues will not be considered. *XTec, Inc.*, B-418619 *et al.*, July 2, 2020, 2020 CPD ¶ 253 at 24. While our decisions have frequently addressed the piecemeal presentation of arguments, we have also rejected the piecemeal presentation of evidence, information, or analysis. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 4. Indeed, our regulations obligate a protester to set forth all of the known legal and factual grounds supporting its allegations because the piecemeal presentation of evidence unnecessarily delays the procurement process and our ability to timely resolve protests. *Military Freefall Sols., Inc.*, B-422300, Mar. 19, 2024, 2024 CPD ¶ 82 at 6-7. It is not apparent why the protester's initial protest did not raise these subsequently raised arguments regarding the alleged multiple health insurance options it intends to offer its employees.

Even if we were to consider the protester's piecemeal argument that it in fact did--and ostensibly intends to prospectively--offer its employees more than one health insurance option, we would nevertheless find no basis to sustain the protest. In this regard, setting aside the parties' conflicting sworn declarations--wherein Attesa claims the agency did not inquire about the number of health insurance options during the oral presentation and the agency avers that it in fact asked and Attesa confirmed it would only offer one option--the protester points to nothing in the contemporaneous record

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<sup>6</sup> We note that the protester's declaration submitted with its comments does not explicitly state that employees under the resulting contract will have multiple health insurance options. Rather, the declaration makes general references to what the Attesa joint venturer performing the incumbent contract has previously provided its employees. See Attesa Comments, Exh. 1, Decl. of Chief Exec. Officer of Joint Venturer, ¶ 6 ("Currently, and for the past several years, [the incumbent] has offered at least two health care plan options, and at times we have offered as many as three plan options."); *id.*, ¶ 8 ("The employees working on the incumbent contract have two health care plan options."). Thus, even this post-protest submission fails to clearly articulate what the protester proposes for employees performing on this contract.

reflecting that it provided a detailed breakdown of its proposed health insurance options. In this regard, the RFP unequivocally directed offerors to provide a “detailed breakdown of competitive benefits and salary (including all fringe benefits offered to [personnel], such as insurance policies, paid-time-off policies, and other compensation elements).”<sup>7</sup> RFP amend. 1 at 107. In response to this clear admonition to provide detailed information, the protester’s proposal, in its entirety, makes only two limited references to health insurance. First, in response to the retention of staff subfactor, Attesa represented that it “will introduce identical competitive benefits packages offered to employees of each member company, e.g., health, vision, dental, and life insurance.” AR, Tab 12, Attesa Tech. Proposal, at 232. Subsequently, in a benefits chart, the protester merely stated “100% Employer-Paid Medical Insurance Coverage.” *Id.* at 233.

As discussed above, it is an offeror’s responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows for meaningful review by the procuring agency. *ARBEIT, LLC, supra*. Absent any contemporaneous record evidence showing that Attesa provided the required “detailed breakdown” of its proposed health insurance offerings or otherwise conveyed the information raised for the first time in its post-agency report declaration identifying multiple health insurance options for its staff, we find no basis on which to sustain this protest ground.

Finally, Attesa challenges the agency’s assessment of a weakness based on the agency’s concerns with the duplicative or disjointed recruiting efforts of the protester’s two constituent joint venturers. The agency assessed a weakness based on Attesa’s discussion during the oral presentation regarding the recruiting efforts of both joint venturers and the perceived attendant duplication of effort and potential resulting delays. The protester contends that the agency’s evaluation was unreasonable and inconsistent with the Attesa’s proposed unified recruiting approach, which reflected a single overall recruiting manager. For the reasons that follow, however, we need not resolve this disputed evaluation finding because, even assuming the agency’s

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<sup>7</sup> As noted above, the protester contends that the agency’s consideration of how many health insurance offerings an offeror proposed to provide to its employees was tantamount to an unstated evaluation criterion. We find no merit to the protester’s argument that the agency’s consideration of the types and quantities of fringe benefits offered constitutes an unstated evaluation criterion. As discussed above, the agency asked for a detailed breakdown of proposed fringe benefits. This requirement was part of a broader retention of staff subfactor that required an offeror to demonstrate its ability to retain both the existing incumbent personnel and new personnel recruited to the contract. RFP amend. 1 at 108. We find that the agency’s consideration of the quality and quantity of an offeror’s fringe benefit offerings, as well as the likely impact on employee retention, was reasonably encompassed by these explicit evaluation criteria. *See, e.g., Raytheon Co.*, B-403110.3, Apr. 26, 2011, 2011 CPD ¶ 96 at 5 (denying protest alleging that an agency relied on unstated evaluation criteria where such considerations were reasonably related to or encompassed by the solicitation’s stated evaluation criteria).



evaluation in this respect was erroneous, the protester cannot reasonably demonstrate that any such error was competitively prejudicial. *Interfor US, Inc.*, B-410622, Dec. 30, 2014, 2015 CPD ¶ 19 at 7 (“Competitive prejudice is an essential element of any viable protest, and where none is shown or otherwise evident, we will not sustain a protest, even where a protester may have shown that an agency’s actions arguably were improper.”).

In this regard, Attesa received an overall satisfactory rating for its phase III oral presentation. In addition to the three weaknesses challenged by Attesa, the record reflects additional concerns that were not contested by the protester. See, e.g., AR, Tab 22, Business Clearance Memorandum at 421 (noting concerns with Attesa’s training reimbursement program and absence of a compelling plan to ensure that personnel possess the ability to proficiently use computer and related commercial-off-the-shelf products). Further, Attesa does not contend that the agency otherwise failed to assign additional strengths to Attesa’s proposed approach. Thus, even assuming for the sake of argument that the agency’s evaluation of Attesa’s recruiting approach was unreasonable, the existence of multiple additional weaknesses and no additional strengths would still support the agency’s ultimate evaluation determinations. *Electrosoft Servs., Inc.*, B-413661, B-413661.2, Dec. 8, 2016, 2017 CPD ¶ 7 at 5.

Further, in addition to failing to demonstrate that its proposal would have reasonably been more favorably evaluated, the protester also advances no challenges to the evaluation of Nakupuna’s proposal. In this regard and as noted above, the awardee’s proposal was rated as outstanding and evaluated as the highest technically rated proposal based on numerous evaluated strengths and only one low-risk weakness. AR, Tab 22, Business Clearance Memorandum, at 422-423. Neither does the protester challenge the evaluation of the two higher-rated proposals nor the evaluation of the two comparably rated, but lower-priced proposals. Thus, it is not apparent that Attesa can demonstrate a reasonable possibility of competitive prejudice even if it were to prevail on its challenge to this single weakness. *Interfor US, Inc.*, *supra*.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel