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Decision

Matter of: Magellan Federal, Inc.

File: B-422890.2

Date: December 17, 2024

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DIGEST

1. Protest challenging the agency's evaluation of the protester's proposal is denied where the record shows that the evaluation was reasonable and consistent with the terms of the solicitation.
 2. Protest challenging the agency's decision not to conduct discussions is denied where the solicitation provided that the agency intended to make award without discussions and no statute or regulation required the agency to conduct discussions.
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DECISION

Magellan Federal, Inc., of Arlington, Virginia, protests the issuance of a task order to Serco Inc., of Herndon, Virginia, by the Department of the Army, Army Materiel Command, for a holistic health and fitness system in support of the Center for Initial Military Training, Army Training and Doctrine Command. The protester challenges the agency's evaluation of its proposal, decision not to conduct discussions, and the source selection decision.

We deny the protest.

BACKGROUND

On March 7, 2024, the agency issued request for proposals (RFP) No. W15QKN-24-R-0Z7W to all 17 holders of the Army's Human Resource Solutions Personnel Life Cycle Support indefinite-delivery, indefinite-quantity (IDIQ) contracts using the procedures at

Federal Acquisition Regulation (FAR) subpart 16.5. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 4; Agency Report (AR), Tab 4, RFP Letter at 1.¹ As part of the holistic health and fitness system, the contractor would provide strength and conditioning coaches and cognitive performance specialists who would be integrated members of a brigade-based multi-disciplinary team focusing on optimizing soldier readiness and performance. AR, Tab 32, RFP attach. 1, Performance Work Statement (PWS) at 1. The RFP contemplated the award of a fixed-price task order with cost-reimbursable line items for travel and other direct costs with a period of performance consisting of an 8-month base period (to include a 30-day transition period) and four 12-month option periods. AR, Tab 34, RFP attach. 5, Task Order Evaluation Plan (TOEP) at 2.

The RFP stated that proposals would be evaluated under the following factors: technical and cost/price. *Id.* The technical factor included evaluation of the following four areas: technical approach; staffing approach; management process; and transition plan. *Id.* at 4-6. The RFP also stated: "The four areas are not subfactors and will not be separately weighted." *Id.* at 4. The RFP provided that the technical factor proposals would be evaluated to assess the offerors' understanding of the requirements, completeness and adequacy of the response, and the feasibility of the approach, and assigned the following ratings: outstanding, good, acceptable, marginal, and unacceptable. *Id.* at 9-11. The technical factor was more important than the cost/price factor, and award would be made based on the best-value proposal determined to be the most beneficial to the government. *Id.* at 2. The RFP further stated that "award may not necessarily be made to the lowest priced offer or to the Offeror with the highest technical rating." *Id.*

The agency received eight proposals including proposals from Magellan and Serco. COS/MOL at 11. In its final evaluation of Magellan's proposal under the technical factor, the agency identified one significant strength, three strengths, and one significant weakness, and assigned a rating of good; Magellan's cost/price was \$270,616,047. AR, Tab 43, Task Order Decision Document at 6, 8-10. In comparison, Serco received a rating of outstanding under the technical factor, and its cost/price was \$279,843,164. *Id.* at 6.

On August 26, the agency notified Magellan that its proposal was not selected for award and provided a written debriefing. AR, Tab 44, Notice of Unsuccessful Offeror Letter and Debriefing. This protest followed.²

¹ The RFP was amended four times. All citations to the record are to Adobe Acrobat PDF page numbers.

² The task order at issue is valued in excess of \$25 million and was placed under an IDIQ contract established by the Army. Accordingly, our Office has jurisdiction to consider Magellan's protest. 10 U.S.C. § 3406(f).

DISCUSSION

The protester argues that the agency unreasonably evaluated its proposal under the technical factor by failing to identify strengths related to its proposed key personnel and finding a significant weakness. The protester further contends that the agency should have conducted discussions and challenges the source selection decision. As discussed below, we find no basis to sustain the protest.

Technical Evaluation

The protester raises two challenges to the agency's evaluation of its technical proposal. First, Magellan argues that it should have received a strength for its proposed key personnel. According to the protester, both its proposed program manager (PM) and alternate PM (APM) exceeded the requirements. Magellan argues that additional duties it proposed to assign to the APM also presented a strength in its proposal that the Army failed to identify. Protest at 9-10. The agency argues that it fairly determined that Magellan's proposed key personnel met the requirements, and the protester's disagreement is insufficient to demonstrate the evaluation was unreasonable. COS/MOL at 14-18.

As noted, the technical factor included evaluation of four areas: technical approach, staffing approach, management process, and transition plan. Regarding staffing approach, among other things, the RFP required that offerors provide a description of the proposed key personnel as follows:

The Offeror shall provide a narrative description of experience and expertise for all key personnel team members' positions (prime and subcontractor), which shall include the [PM] and [APM] who have been identified by the Government in the [performance work statement (PWS)] as key personnel for this requirement. The narrative shall describe the individual's specialized experience, qualifications, and education, to include specific dates and/or years/months of experience and education, as it relates specifically to the duties assigned under this [task order].

TOEP at 5. The RFP defined a strength as "[a]n aspect of an Offeror's proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during [task order] performance." *Id.* at 12.

The PWS provided the following minimum requirements for the PM and APM:

The PM shall have a minimum of five years relevant experience managing and staffing geographically dispersed locations similar in size and complexity to this requirement. The Government considers relevant PM and APM (if APM is primary role) experience managing requirements with approximately 250 [full-time equivalents (FTEs)] to meet the similar in size requirement. The Government considers

program/project management of requirements requiring employee professional certifications, monthly travel requirements and performance at four or more geographically dispersed locations as similar complexity. Experience attained concurrently can be combined to satisfy the size and geographically dispersed location requirements. Military experience that includes overseeing 250 or more FTEs for a minimum of 5 years also meets the PM or APM qualifications. The PM and APM (if APM is primary role) shall, at a minimum, have a Master's degree in any field from an accredited academic institution. A program/project management professional certification is preferred. The designated APM may serve dual roles. . . . However, at a minimum, the dual-hatted APM shall possess a Bachelor's degree in any field from an accredited college or university and have two years of program/project management experience. Otherwise, if APM is the primary role, the APM shall meet the same education, experience and qualifications outlined above for the PM.

PWS at 17-18. In addition, under the staffing approach area, the RFP stated that any cross utilization of personnel should be clearly explained and depicted. TOEP at 5.

In its proposal, Magellan stated that its proposed PM met the requirement to have a master's degree and exceeded the work experience requirements, and its APM exceeded both the master's degree and work experience requirements.³ AR, Tab 38, Magellan Revised Proposal at 24-27. In its evaluation, the agency did not identify a strength related to Magellan's proposed key personnel. Rather, the agency concluded: "The Offeror's proposal describes in detail their personnel with qualified experience, including narratives for [PM] and [APM]. The Government determined the Offeror's proposal meets the requirements in this staffing approach area." AR, Tab 41, Magellan Technical Evaluation at 11.

In reviewing a protest of a task order competition, we do not reevaluate proposals but examine the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, 2015 CPD ¶ 228 at 7. For us to review an agency's evaluation judgment, an agency must have adequate documentation to support its judgment. *Addx Corp.*, B-417804 *et al.*, Nov. 5, 2019, 2020 CPD ¶ 118 at 5. While we accord greater weight to contemporaneous source selection materials as opposed to judgments made in response to protest contentions, post protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded

³ As explained in its proposal, Magellan's proposed PM has a [DELETED] and [DELETED] years of work experience managing over [DELETED]. AR, Tab 38, Magellan Revised Technical Proposal at 24. Magellan's proposed APM has [DELETED] and [DELETED] years managing over [DELETED]. *Id.* at 26. Both the PM and APM are U.S. Army veterans with over 20 years of work experience. *Id.* at 24-27.

details, will generally be considered in our review of the rationality of selection decisions--so long as those explanations are credible and consistent with the contemporaneous record. *Id.* at 7; *Glacier Tech. Sols., LLC*, B-412990.2, Oct. 17, 2016, 2016 CPD ¶ 311 at 7.

Based on our review, we find that the agency's evaluation was reasonable. The agency states that "the Government only assigned significant strengths or strengths if an offeror's approach provided considerable merit that went beyond the requirements and directly benefited the Government," and that "merely exceeding a performance requirement does not automatically result in the assignment of a strength." AR, Tab 1b, Decl. of Technical Evaluation Board (TEB) Member at 2. Consistent with the definition of a strength, the agency asserts that "[a]lthough Magellan's PM and APM exceeded the minimum PWS requirements" for key personnel, the evaluators did not find that "to be advantageous to the Government during [task order] performance on this particular [task order]." *Id.* at 3. In this regard, we agree with the agency that every instance where an offeror exceeds a particular requirement does not by itself require that an agency identify a strength in its evaluation of a proposal. The protester disagrees but has not shown that the Army's conclusion that Magellan met the key personnel requirements, without assessing a strength for doing so, was unreasonable. See *SSI*, B-413486, B-413486.2, Nov. 3, 2016, 2016 CPD ¶ 322 at 9.

As relates to the additional duties assigned to the APM, the record shows that regarding the cross utilization of personnel, the agency concluded that Magellan's proposal met the requirements under the staffing approach area. AR, Tab 41, Magellan Technical Evaluation at 11. The record also shows that the agency identified a strength under this same area for Magellan's "robust management approach," an approach which includes its proposed [DELETED]. *Id.* at 13. The agency states that this strength assigned for its management approach recognized this aspect of Magellan's proposal to include that [DELETED] but did not require that the agency identify a separate strength with respect to [DELETED]. AR, Tab 1b, Decl. of TEB Member at 3. As noted, the PWS already contemplated that the APM may also serve in an additional role. PWS at 18 ("The designated APM may serve dual roles."). Based on our review, the protester has not demonstrated that the evaluation was unreasonable. Accordingly, these allegations are denied.

The protester also argues that the agency unreasonably identified a significant weakness for Magellan's management process to have the person serving as the [DELETED] also serve as the installation lead. As noted, the RFP stated that any cross utilization of personnel should be clearly explained and depicted. TOEP at 5. The PWS further specified: "If an Installation Lead is dual-hatted, the Installation Lead role is considered secondary and therefore the Contractor employee shall meet the qualifications of their primary role. If the Installation Lead is a stand-alone position, there are no special qualifications required, however, the Contractor shall meet the qualifications of the identified labor category." PWS at 21.

Under the management process area, the RFP stated that due to the multiple places of performance (continental United States (CONUS)/outside continental United States (OCONUS)), offerors should clearly describe their management structure and how they would manage a dispersed workforce located at various places of performance to ensure standardization and uninterrupted, high-quality services. TOEP at 6. The RFP further stated that offerors should “address timely identification and resolution of issues; and their intended inspection methodology to validate this approach and include their approach for inspection as the [task order] includes multiple locations.” *Id.*

In its proposal, Magellan indicated that for the [DELETED], “[o]ne position per installation will be [DELETED].” AR, Tab 38, Magellan Revised Proposal at 16; *id.* at 17 (“[DELETED] form the final layer of our management structure, resolving minor issues (e.g., dress code violations) and relaying any systemic issues to their [DELETED] for resolution.”); Tab 39, Magellan Sanitized Price Matrix. In its evaluation, the agency identified as a strength that Magellan had proposed a robust management approach. AR, Tab 41, Magellan Technical Evaluation at 13. However, the agency also identified a significant weakness for [DELETED], and stated in pertinent part as follows:

The Offeror proposes to [DELETED] at most (all but three) installations to serve as [DELETED] who will be the primary point of contact for contract-related issues. . . . Although the proposed plan may utilize the best qualified [DELETED], they have a different skillset than most of the workforce [DELETED] which can affect development of the best course of action for [DELETED]and therefore affect the quality of services. Additionally, the fact that [DELETED] poses risks to the Government as additional duties for the [DELETED] will take away from their day-to-day functions and add to their high workload since there’s only one CPS per [installation/brigade]. This portion of the Offeror’s management plan demonstrates a lack of understanding and approach to this section of the requirement, which is a flaw in the proposal that appreciably increases the risk of unsuccessful task order performance.

Id. at 14.

Magellan argues the RFP specifically contemplated [DELETED] and that: “There is simply no basis for the conclusion that ‘additional duties [as] the [DELETED] will take away from their day-to-day functions’ as [DELETED]. . . . If the Army believed that [DELETED] posed a risk to the government, then it should have prohibited it in the Solicitation rather than explicitly allowing it.” Protest at 11. The protester further contends that the significant weakness conflicts with the strength the agency assigned for Magellan’s management approach, which concluded that proposing [DELETED] to assist in contract management across all installations would ensure that the [DELETED] would have administrative support permitting time to perform their tasks. *Id.* at 10-11.

The agency explains that the key point of its significant weakness finding is that the individuals [DELETED] will reduce the capability to perform [DELETED] duties as

assigning the [DELETED] functions to the [DELETED] will take away from the [DELETED]'s ability to perform day-to-day [DELETED] functions and add to an already high workload:

Under this [task order], each [installation/brigade] is supported by a team consisting of seven SCCs and one CPS. Assigning the additional role to the [DELETED] that is responsible to provide services to an entire [installation/brigade] appreciably increases the risk of unsuccessful [task order] performance over assigning the role to [DELETED] which would leave six other [DELETED] to provide services to a [installation/brigade]. This can impact the [installation/brigade] quality of support (adds risk). The evaluation board identified this management process appropriately when assigning a Significant Weakness for [DELETED] in Magellan's proposal.

AR, Tab 1b, Decl. of TEB Member at 5-6.

The protester's disagreement with the agency on this point does not demonstrate that the Army's conclusion is unreasonable. As proposed by Magellan, the CPS will serve as the [DELETED] at all but three locations, and the agency concluded that while overall this approach would provide support to the [DELETED] as one part of an otherwise robust management approach, [DELETED] would have a heavy workload that presented risk in its proposal that constituted a significant weakness. Based on our review of the record, we do not believe that the strength--assessed to Magellan's overall management approach, which the agency noted also included [DELETED]--conflicts with the significant weakness assessed for the [DELETED]. And although the RFP permitted the cross utilization of personnel, offerors still had to clearly explain the cross-utilization; the fact that the RFP permitted it does not mean that an offeror's proposed cross-utilization could not be evaluated as a weakness in its proposal. The protester has not demonstrated that this aspect of the agency's evaluation was unreasonable, therefore this allegation is also denied.

Decision Not to Conduct Discussions

The protester argues that the Army should have conducted discussions and its stated reason for not doing so is unreasonable. Citing to Defense Federal Acquisition Regulation Supplement (DFARS) section 215.306(c), which states that discussions should be conducted in acquisitions exceeding \$100 million, the protester argues that it could have addressed the significant weakness in its proposal had the agency conducted discussions. Magellan also argues that the agency's claim that discussions would not have been meaningful because the agency received multiple highly rated proposals at fair and reasonable prices is irrational. Protest at 12-13. The agency argues DFARS section 215.306(c) does not apply to this procurement, the RFP did not require that the agency conduct discussions, and the Army properly exercised its discretion and did not conduct discussions. COS/MOL at 25-27.

As a preliminary matter, our Office has said that the provisions of DFARS section 215.306(c), on which the protester relies, are not applicable to procurements conducted under FAR part 16. *General Dynamics Info. Tech., Inc.*, B-422272, B-422272.2, Mar. 15, 2024, 2024 CPD ¶ 81 at 10; *R&K Enter. Sols., Inc.*, B-419919.6 *et al.*, Sept. 12, 2022, 2022 CPD ¶ 237 at 11. As noted above, this procurement was conducted as a task order competition among IDIQ contract holders and, as such, was subject to the provisions of FAR section 16.505 and correspondingly subpart 216.5 of the DFARS which do not establish specific requirements for conducting discussions. See *SSI, supra* at 5; *Companion Data Servs., LLC*, B-410022, B-410022.2, Oct. 9, 2014, 2014 CPD ¶ 300 at 12.

In addition, the RFP stated: “The Government intends to evaluate proposals and award a [task order] without discussions with Offerors. However, the Government reserves the right to conduct discussions, if the Contracting Officer later determines them to be necessary.” TOEP at 4. Where, as here, a solicitation advises offerors that an agency intends to make award on the basis of initial proposals, the agency is under no obligation to engage in discussions, and properly may make award based on initial proposals. *CACI Techs., Inc.*, B-411282, June 18, 2015, 2015 CPD ¶ 185 at 4. Moreover, an agency is not required to engage in discussions in order to afford a protester the opportunity to cure one or more deficiencies in its proposal; rather, it is the protester’s affirmative obligation to demonstrate the merits of its proposal. *General Dynamics Info. Tech., Inc., supra*.

Under these circumstances, we find no basis to question the agency’s discretion and decision not to conduct discussions. We therefore deny this protest ground.

Best-Value Determination

The protester argues that the Army’s best-value determination is unreasonable because it was based on a flawed and unreasonable evaluation and the improper decision not to conduct discussions. Protest at 13-14. The agency argues that it has refuted the allegations challenging its evaluation of Magellan’s proposal, and it follows that the source selection decision is also reasonable. COS/MOL at 27-28.

This allegation is derivative of the protester’s challenges to the agency’s evaluation of Magellan’s proposal and decision not to conduct discussions. As discussed above, we find no basis to object to the agency’s evaluation or decision not to conduct discussions. Accordingly, we dismiss this allegation because derivative allegations do not establish an independent bases of protest. *SOS Int’l, LLC*, B-422323, Apr. 24, 2024, 2024 CPD ¶ 110 at 11; *Merrill Aviation & Defense*, B-416837, B-416837.2, Dec. 11, 2018, 2018 CPD ¶ 421 at 10.

The protest is denied.

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