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Decision

Matter of: Tech7 Consulting, LLC

File: B-423206; B-423206.2

Date: March 10, 2025

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Kara L. Daniels, Esq., Nicole Williamson, Esq., and Kyung Liu-Katz, Esq., Arnold & Porter Kaye Scholer LLP, for Science Applications International Corporation, Inc.; Stephan P. Ramaley, Esq., Adam A. Bartolanzo, Esq., Lyle F. Hedgecock, Esq., Lauren S. Fleming, Esq., and Kathryn J. Carlson, Esq., Miles & Stockbridge PC, for Bryce Space and Technology, LLC; Isaias Alba IV, Esq., Katherine B. Burrows, Esq., Tracey L. Pruiett, Esq., Eric A. Valle, Esq., and Christopher A. Jannace, Esq., Piliero Mazza PLLC, for OBX-MCR Alliance, LLC; and William M. Pannier, Esq., Pannier Law PC, for BTAS, Inc., the intervenors.

Colonel Nina R. Padalino, Christian H. Robertson II, Esq., and Joseph Wendleberger, Esq., Department of the Air Force, for the agency.

Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where solicitation advised offerors that the agency “may award without discussions,” protester’s assertion that the agency was required to open discussions to permit the protester’s submission of additional information is denied.

DECISION

Tech7 Consulting LLC, of Monument, Colorado, protests the award of contracts by the Department of the Air Force, U.S. Space Force, to offerors other than Tech7 pursuant to request for proposals (RFP) No. FA8819-24-R-B002. The solicitation contemplated the award of “approximately ten” indefinite-delivery, indefinite-quantity (IDIQ) contracts to provide advisory and assistance services for the Space Force. Agency Report (AR),

Tab 44, RFP § M at 5.¹ Tech7 challenges various aspects of the agency's evaluation and source selection process, including the agency's decision not to conduct discussions, and asserts that the agency was required to open discussions with Tech7 to permit Tech7's submission of additional cost/price information.

We deny the protest.

BACKGROUND

On February 12, 2024, the agency issued RFP No. FA8819-24-R-B002, seeking proposals to provide services "to develop, advance, and sustain weapon systems" for various organizations within the Space Force.² AR, Tab 30, Performance Work Statement (PWS) at 5. The solicitation established three evaluation factors--technical, small business participation, and cost/price--and provided that source selection decisions would be "based on a best value assessment of technical and price."³ AR, Tab 44, RFP § M at 5-13. The solicitation directed offerors to submit their proposals in four volumes--(1) executive summary; (2) technical; (3) cost/price; and (4) contract responsibility/documentation--and provided instructions regarding the required content of each volume.⁴ AR, Tab 43, RFP § L at 10-12.

With regard to the cost/price volume, the solicitation required offerors to propose fully burdened labor rates for various labor categories; the rates will be used as ceiling rates in pricing subsequent task orders. In this context, the solicitation required offerors to submit detailed information to support their proposed rates--specifically including direct labor rates, overhead rates (including fringe benefits), general and administrative rates, and fee. *Id.* at 20-22. The solicitation further provided that cost/price proposals would be evaluated with regard to reasonableness, realism, and unbalanced pricing, and

¹ The page numbers referenced in this decision are the Adobe PDF page numbers in the documents submitted.

² The agency states that a majority of the work to be performed will support highly classified missions. Memorandum of Law (MOL) at 6.

³ Evaluation under the small business participation factor was performed on an acceptable/unacceptable basis. AR, Tab 44, RFP § M at 7.

⁴ For example, with regard to volume 4, "Contract Responsibility and Documentation," the solicitation directed offerors to submit various documents that "will be relied upon to facilitate the Contracting Officer's determination of contractor responsibility." AR, Tab 44, RFP § M at 12-13. Included as required volume 4 documents were offerors' total compensation plans for professional employees, to be prepared "in accordance with FAR [Federal Acquisition Regulation] [provision] 52.222-46." AR, Tab 43, RFP § L at 24. The agency states that the solicitation's provisions regarding submission and evaluation of these documents as a matter of responsibility is authorized by section 3.1.1.5 of the Department of the Air Force Federal Acquisition Regulation Supplement. MOL at 12.

stated that proposals “must contain sufficient details for the Government evaluation [in those areas],” adding that “[c]ompliance with these requirements is mandatory and failure to comply may result in a determination of noncompliance.” *Id.*; see AR, Tab 44, RFP § M at 11-12.

Prior to the solicitation closing date, offerors were encouraged to submit questions regarding the solicitation’s requirements. AR, Tab 43, RFP § L at 8. In this context, Tech7 submitted the following question:

What supporting documentation for proposed rates does the prime offeror have to submit for subcontractor proposed rates?

AR, Tab 56, Offeror Questions/Agency Answers at Line 95.

The agency responded:

[I]n order to be compliant with the document requirements of Volume III [cost/price proposal], the Subcontractor would need to provide the same documentation as required from the Prime.

Id.

Finally, under the heading “Discussions,” the solicitation notified the offerors that “[t]he Government may award without discussions . . . [unless] the Government determines that discussions are in its best interest.” AR, Tab 44, RFP § M at 5-6. The solicitation further advised offerors that “[i]f, after receipt of proposals, the PCO [procurement contracting officer] determines that there is insufficient data available to complete the cost/price evaluation, the Offeror shall be required to submit additional cost or pricing data.” AR, Tab 43, RFP § L at 20.

On or before the April 29 closing date, proposals were submitted by 40 offerors, including Tech7. Notwithstanding the agency’s specific direction responding to Tech7’s question regarding submission of subcontractor rate information, Tech7’s cost/price proposal failed to include the required information for its subcontractors. Specifically, in evaluating Tech7’s proposal, the agency stated:

The Offeror is not compliant with the RFP and did not include indirect rates for all positions. The Offeror proposed 40 subcontractor rates that did not include Fringe and Overhead rates in the subcontractor wrap rate build up. The Government could not verify if the proposed subcontractor rates were fully burdened. Therefore, the Government was unable to complete its evaluation for reasonableness, realism, and unbalanced pricing. The Offeror is missing information for subcontractor indirect rate and the Government could not determine if the proposed rates are under or overstated.

AR, Tab 84, Tech7 Evaluation at 3.

Accordingly, the agency concluded that Tech7's proposal was ineligible for award due to Tech7's failure to comply with the solicitation's requirements regarding submission of cost/price information. *Id.*; see AR, Tab 104, Debriefing/Response to Tech7's Questions at 82.

After completing its evaluation of offerors' initial proposals, the agency concluded that there were 12 offerors' proposals that: were rated acceptable or better under the non-cost/price factors; offered cost/price proposals that were reasonable, realistic, and balanced; and included the required supporting cost/price information. After reviewing the proposals and the evaluation documentation, the source selection authority (SSA) concluded that, although the government could "possibly derive marginal value from [conducting discussions] . . . the speculative possibility of increased value would not be an efficient use of Government resources." AR, Tab 101, Source Selection Decision Document at 11-13. Accordingly, the SSA determined that awarding contracts to each of the 12 offerors based on their initial proposals "will give the best value to the Government." *Id.* at 13. Thereafter, the agency communicated with each of those offerors regarding matters of responsibility,⁵ and subsequently awarded a contract to each offeror. AR, Tab 108, Debriefing/Response to Tech7 Questions at 3-5.

On November 6, the agency notified Tech7 that its proposal had not been selected for award and that the agency had awarded IDIQ contracts to 12 other offerors.⁶ AR, Tab 103, Notice of Award at 1-3. In its notice, the agency advised Tech7 that "[t]he Government was unable to perform a Cost/Price analysis due to insufficient details." *Id.*

On November 13 and November 22, in response to Tech7's requests and questions, the agency provided a written debriefing that included a summary of the agency's

⁵ As noted above, the solicitation provided that documentation required to be submitted with volume 4 of the proposals, (titled "Contract Responsibility and Documentation") "will be reviewed . . . [and] will be relied upon to facilitate the Contracting Officer's determination of contractor responsibility[.]" AR, Tab 44, RFP § M at 12. The FAR allows information concerning an offeror's responsibility to be established up to the time of award, and an agency's request for and acceptance of information that relates to offeror responsibility, rather than proposal evaluation, does not constitute discussions. FAR 9.105-1; *Northrop Grumman Sys. Corp.*, B-412278.7, B-412278.8, Oct. 4, 2017, 2017 CPD ¶ 312 at 19.

⁶ The agency's award notice identified the following awardees: Axient, LLC; Bryce Space and Technology, LLC; BTAS, Inc.; KBR Wyle Services, LLC; LinQuest Corporation; Modern Technology Solutions, Inc.; NTSI LLC; OBX-MCR Alliance LLC; QuanTech Services, Inc.; Science Applications International Corporation, Inc.; SigmaTech, Inc.; and Solutions Through Innovative Technologies, Inc. AR, Tab 103, Notice of Award at 1-2; see Contracting Officer's Statement (COS) at 26.

evaluation of proposals and responses to Tech7's questions.⁷ AR, Tabs 104, 107, 108, Agency Debriefing/Responses to Tech7's Questions. The debriefing concluded on November 22. Protest at 2-3.

DISCUSSION

On December 2, Tech 7 filed its initial protest with our Office, asserting, among other things, that the agency improperly rejected Tech7's proposal for failing to submit all of the required cost/price information. Protest at 7-10. Tech7 does not dispute the fact that its proposal failed to include the required subcontractor cost/price information. Rather, Tech7 maintains that the solicitation "mandated" that discussions be conducted to permit Tech7 to submit the information its proposal had failed to include. Protest at 1-2, 7-10; Protester Comments at 3, 7. In making this argument, Tech7 relies on the solicitation provision that stated: "[i]f, after receipt of proposals, the PCO [procurement contracting officer] determines that there is insufficient data available to complete the cost/price evaluation, the Offeror shall be required to submit additional cost or pricing data."⁸ AR, Tab 43, RFP § L at 20.

The agency responds that the solicitation did not require the agency to conduct discussions. To the contrary, section M of the solicitation expressly stated: "The Government may award without discussions." AR, Tab 44, RFP § M at 5. The agency further points out that: the solicitation provided that initial cost/price proposals must include sufficient support for the proposed rates;⁹ the solicitation provided that failure to comply with this requirement could result in a determination of noncompliance and exclusion of the proposal from further consideration for award;¹⁰ and there is no dispute that Tech7's proposal failed to comply with this requirement. COS at 31-36. The

⁷ Of relevance to Tech7's supplemental protest, the agency's debriefing specifically advised Tech7 that, in communicating with the offerors who were selected for award, the agency permitted those offerors "to update the[ir] TCP [total compensation plan]." AR, Tab 107, Debriefing/Response to Tech7 Questions at 23.

⁸ Tech7 also protests various other aspects of the agency's evaluation of proposals. As discussed below, Tech7's proposal was reasonably excluded from consideration based on its failure to comply with the solicitation requirements. Accordingly, Tech7 is not an interested party to further challenge the agency's evaluation of proposals. See, e.g., *G-W Mgmt. Servs., LLC*, B-421886, B-421886.2, Nov. 8, 2023, 2023 CPD ¶ 255 at 7.

⁹ Among other things, the solicitation stated that failure to provide sufficient details supporting an offeror's cost/price proposal--either "initially or subsequently"--could form a basis for excluding the proposal from further consideration. AR, Tab 44, RFP § M at 12.

¹⁰ As discussed above, the solicitation stated: "The proposal must contain sufficient details for the Government evaluation of reasonableness, realism, [and] unbalanced pricing. . . . Compliance with these requirements is mandatory and failure to comply may result in a determination of non-compliance." AR, Tab 43, RFP § L at 20.

agency further notes that Tech7, itself, asked whether the subcontractor cost/price information that Tech7 subsequently chose not to submit was required--and the agency unambiguously responded that it was. AR, Tab 56, Offeror Questions/Agency Answers at Line 95.

Finally, the agency notes that Tech7's interpretation of the solicitation would effectively nullify the solicitation's explicit directions regarding the submission of required information. That is, under Tech7's interpretation, if an offeror failed to submit any information at all in its initial cost/price proposal, the agency would still be required to conduct discussions to obtain the required data. COS at 33. The agency maintains that the terms of the solicitation, read as a whole, provided that, *If* the agency opened discussions and sought additional cost/price data, the offeror was required to submit that data. *Id.* at 34. Accordingly, the agency maintains that Tech7's assertion that the solicitation required the agency to conduct discussions is unreasonable, contrary to the terms of the solicitation, and should be rejected. We agree.

When a dispute exists as to a solicitation's requirements, we will resolve the matter by examining the plain language of the solicitation and reading the solicitation as a whole in a manner that gives effect to all provisions; to be reasonable, and therefore valid, an interpretation must be consistent with such a reading. *Innovative Mgmt. Concepts, Inc.*, B-419834.2, B-419834.3, Sept. 20, 2021, 2021 CPD ¶ 319 at 15; *Beechcraft Def. Co., LLC*, B-406170.2 *et al.*, June 13, 2013, 2013 CPD ¶ 147 at 30. An interpretation is not reasonable if it fails to give meaning to all of a solicitation's provisions, renders any part of the solicitation absurd, surplus, or creates conflicts. *Id.*

Here, as noted above, Tech7 does not dispute that its proposal failed to comply with the solicitation requirements regarding submission of cost/price information. Rather, its protest is based on the assertion that the solicitation required the agency to open discussions to permit Tech7's submission of the information it omitted. Further, there is no basis for Tech7 to credibly assert that it reasonably failed to understand the solicitation requirements regarding submission of cost/price data;¹¹ indeed, in response to Tech7's own question, the agency specifically stated that Tech7 was required to submit the data its proposal subsequently omitted. Finally, Tech7's interpretation of the solicitation would effectively nullify the solicitation's explicit directions regarding the type of information required, since an offeror's failure to submit *any* cost/price information would trigger a requirement for the agency to conduct discussions to cure the flaw. Accordingly, based on our review of the solicitation as a whole, we conclude that the solicitation permitted, but did not require, the agency to conduct discussions; Tech7's interpretation of the solicitation to the contrary is not reasonable. In short, Tech7's assertion that the agency was required to conduct discussions to permit Tech7's submission of additional cost/price information is without merit and is denied.

¹¹ Remarkably, Tech7 asserts that it "provided an offer that it believed on its face satisfied the requirements of the solicitation." Protest at 8.

On December 16 (two weeks after submission of its initial protest), Tech7 filed a supplemental protest complaining that the agency permitted Science Applications International Corporation, Inc. (SAIC), one of the awardees, to “correct its total compensation plan” after proposals were submitted and prior to award. Accordingly, Tech7 asserts that the agency conducted discussions with SAIC, but failed to do so with Tech7. Supp. Protest at 1.

Tech7’s supplemental protest is not timely filed. As noted above, in responding to Tech7’s debriefing questions, the agency specifically disclosed that, during its preaward communications with the offerors that had been selected for award, those offerors were “allowed to update the[ir] TCP [total compensation plans].” AR, Tab 107, Debriefing/Response to Tech7 Questions at 23, Response to Question 49. Further, there is no dispute that the debriefing concluded on November 22. Protest at 2-3. Finally, GAO’s bid protest regulations require that, in a procurement such as this, where there was a requested and required debriefing, a post-award protest must be filed within 10 days after the date on which the debriefing concludes. 4 C.F.R. 21.2(a)(2); *State Women Corp.*, B-416510, July 12, 2018, 2018 CPD ¶ 240 at 5. Since Tech7’s supplemental protest was filed on December 16--more than 10 days after the conclusion of its debriefing on November 22,--and its supplemental protest is based on information that was disclosed during the debriefing, the supplemental protest is untimely and will not be considered.¹²

The protest is denied.

Edda Emmanuelli Perez
General Counsel

¹² As a variation of its argument regarding discussions, Tech7 asserts that the evaluation of SAIC’s proposal was improper because SAIC “did not properly complete its TCP [total compensation plan]” and “should have been found ineligible for award.” Protest at 3-5. However, as noted above, Tech7’s proposal was properly excluded from consideration for award; accordingly, Tech7 is not an interested party to further challenge the agency’s evaluation of proposals. See, e.g., *G-W Mgmt. Servs., LLC*, B-421886, B-421886.2, Nov. 8, 2023, 2023 CPD ¶ 255 at 7.