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Decision

Matter of: IAP World Services, Inc.

File: B-418566.2; B-418566.3; B-418566.4

Date: August 20, 2020

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Adam K. Lasky, Esq., Seyfarth Shaw, LLP, and Howard W. Roth, Esq., and Daniel O. Culicover, Esq., Oles Morrison Rinker & Baker, LLP, for Vectrus-J&J Facilities Support, LLC, the intervenor.
Nicolle A. Vasquez, Esq., Department of the Navy, for the agency.
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DIGEST

1. Protest that the agency's evaluation was unreasonable due to a material misrepresentation in the awardee's proposal is denied where the record shows that the alleged misrepresentation did not invalidate the evaluation.
 2. Protest that the agency unreasonably evaluated proposals is denied where the evaluation was consistent with the record and applicable statutes and regulations.
 3. Protest that the agency unreasonably made its source selection decision is denied where the record shows that the agency considered the qualitative merit of both proposals, compared the advantages and disadvantages, and made an informed decision based on such considerations.
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DECISION

IAP World Services, Inc., of Cape Canaveral, Florida, protests the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to Vectrus-J&J Facilities Support, LLC (VJFS),¹ of Colorado Springs, Colorado, under request for proposals (RFP) No. N6247016R5008, issued by the Department of the Navy for base operations

¹ VJFS is a joint venture between Vectrus Systems Corporation, of Colorado Springs, Colorado, and J&J Worldwide Services, of Austin, Texas.

support services. IAP alleges that VJFS materially misrepresented its proposal, and that the Navy unreasonably evaluated proposals and improperly made its source selection decision.

We deny the protest.

BACKGROUND

On October 22, 2018, the Navy issued the RFP to procure base operations support services at the Naval Support Activity Annapolis, Maryland. Agency Report (AR), Tab 1, Conformed RFP at 1. The selected contractor would provide numerous services, such as facility management, pest control, utility management, and event management. *Id.* at 22. The RFP contemplated the issuance of a fixed-price IDIQ contract to be performed over a 1-year base period and six 1-year option periods. *Id.* at 15-21, 470.

Award was to be made on a best-value tradeoff basis considering corporate experience, safety, small business utilization, past performance, and price factors. AR, Tab 1, Conformed RFP at 472-73. When combined, the corporate experience, safety, and small business utilization factors were of equal importance to the past performance factor. *Id.* at 472. Additionally, all technical factors, when combined, were of equal importance to the price factor. *Id.*

Nine offerors, including IAP and VJFS, submitted proposals prior to the January 13, 2019, closing date for receipt of initial proposals. Memorandum of Law (MOL) at 15. The Navy established a competitive range consisting of IAP, VJFS, and another offeror. ARM Tab 7, Source Selection Advisory Council (SSAC) Report at 3. Those three offerors submitted final revised proposals prior to the March 3, 2020, closing date. *Id.*

The Navy's evaluation produced the following relevant results:

	IAP	VJFS
Overall Technical Ranking	Outstanding	Good
• Corporate Experience	Outstanding	Good
• Safety	Outstanding	Good
• Small Business Utilization	Good	Good
• Past Performance	Substantial Confidence	Substantial Confidence
Price	\$168,337,041	\$154,100,049

AR, Tab 8, Source Selection Decision Document (SSDD) at 3. Based on the evaluation results, the source selection authority (SSA) determined that VJFS's proposal represented the best value. *Id.* The SSA noted that VJFS demonstrated a thorough understanding of the requirements, and that its proposal represented only a low to moderate risk of unsuccessful performance. *Id.* When comparing IAP's and VJFS's proposals, the SSA noted that IAP had a better technical approach in the corporate experience and safety factors, but that its technical advantages were not worth its 9.24

percent price premium (\$14,236,992). *Id.* With regard to past performance, the SSA noted that IAP and VJFS had equivalent expectations of successful performance based on their respective past performance records. *Id.* The SSA also noted that, even if IAP's past performance record indicated a stronger likelihood of successful performance based on having four "very relevant" referenced contracts as opposed to VJFS having only two "very relevant" and three less relevant referenced contracts, any advantage in this regard would not overcome the price premium. *Id.* After IAP learned that its proposal was unsuccessful, it filed this protest with our Office.

DISCUSSION

IAP alleges that VJFS materially misrepresented information in its proposal, and that the Navy unreasonably evaluated both proposals and improperly made its source selection decision. We have reviewed all of IAP's challenges and conclude that none provides us with a basis to sustain the protest. We discuss IAP's principal allegations below, but note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *SaxmanOne, LLC*, B-414748, B-414748.3, Aug. 22, 2017, 2017 CPD ¶ 264 at 3.

Material Misrepresentation

IAP primarily alleges that the Navy's evaluation was unreasonable because VJFS materially misrepresented its management structure by failing to disclose an imminent sale. Comments and Supp. Protest at 5-6; Second Supp. Protest at 1-5. IAP asserts that one of VJFS's members (J&J Maintenance, Inc. d/b/a J&J Worldwide Service (J&J)) was subject to an asset purchase on July 8, 2020, and therefore VJFS should have disclosed the details of this transaction in its proposal. *Id.*

By way of background, J&J was subject to a stock purchase after the Navy awarded the contract to VJFS on May 28, 2020. J&J's former owners entered into a conditional stock purchase agreement with Arlington Capital Partners on May 30. Decl. of J&J President at 1. The stock purchase agreement was completed on July 3. *Id.* The stock purchase did not alter J&J's corporate status (*i.e.*, the legal entity remains unchanged), and J&J remains in control over all of its assets. *Id.* at 1-2. Additionally, J&J's operations and senior management staff were unaffected by the sale. *Id.* at 2.

As a general matter, an offeror's material misrepresentation in its proposal can invalidate an agency's evaluation, and serve as a basis to cancel any contract award. *Crown Point Sys.*, B-413940, B-413940.2, Jan. 11, 2017, 2017 CPD ¶ 19 at 9. This is because where an offeror's proposal represents that it will perform the contract in a manner materially different from the offeror's actual intent, an award based on such proposal cannot stand, since both the offeror's representations, and the agency's

reliance on such, have an adverse impact on the integrity of the procurement process. *Wyle Laboratories, Inc.*, B-408112.2, Dec. 27, 2013, 2014 CPD ¶ 16 at 8.

On this record, we agree with the agency that even if there had been a misrepresentation--and that does not appear to be the case--it does not invalidate the agency's evaluation. See Supp. MOL at 4 (stating that the sale did not have any impact on the agency's evaluation); see also Second Supp. MOL at 5. As noted above, the agency's evaluation cited VJFS's experience and past performance when determining that the firm's proposal represented the best value. See AR, Tab 8, SSDD at 3. The recent stock purchase of J&J does not appear to change VJFS's level of experience or past performance because the sale does not alter J&J's operations, management team, or resources. See *Consortium HSG Technisher Service GmbH et al.*, B-292699.6, June 24, 2004, 2004 CPD ¶ 134 at 3 (sale affecting member of joint venture did not render unreasonable the agency's evaluation where the joint venture's resources did not appear to be changed by the transaction).

To illustrate, J&J's press release announcing the sale states, "J&J [will] remain an independent entity," that J&J's "senior management has made substantial investments as part of the transaction and will continue to lead the Company's strategic growth initiatives in the future," and that the sale was completed "in partnership with the existing management team." Intervenor's Supp. Comments at 5 (citing J&J Press Release Announcing Sale (long version), July 8, 2020); Protester's Comments and Supp. Protest, exh. B, J&J Press Release (short version). Further, J&J's President confirms that he and the other members of the firm's operations management team will occupy the same roles following the sale, that the corporate entity remains unchanged, and that the firm will retain control over its assets and contracts. Decl. of J&J's President at 2.

Thus, the agency's evaluation is unobjectionable because VFJW's experience and past performance are still valid indicators of its likely performance since the record does not demonstrate that the recent stock purchase involving J&J will change VJFS's manner of performance in any meaningful way. Compare *VSE Corp.*, B-417908, B-417908.2, Nov. 27, 2019, 2019 CPD ¶ 413 at 9 (agency's evaluation was unaffected where the record did not demonstrate that awardee's corporate reorganization would alter its manner of performance "since the transaction involves only a change in the ownership of [the awardee's] stock") with *Wyle Laboratories, Inc.*, *supra* at 8-11 (agency's evaluation was invalidated where the record showed that the awardee's corporate reorganization would alter its manner of performance and the agency did not consider that change).

To the extent the protester complains that VJFS did not notify the agency about the potential future stock transaction in its proposal, we do not find that allegation provides us with a basis to sustain the protest. Second Supp. Protest at 5. Even assuming that VJFS had a duty to notify the agency about the potential future stock transaction and failed to do so, we do not see how any failure to notify caused the protester to suffer competitive prejudice. Competitive prejudice is an essential element of every viable protest, and we will not sustain a protest unless the protester demonstrates a

reasonable possibility that it was prejudiced by the agency's actions. *Orbit Research, LLC*, B-417462, July 17, 2019, 2019 CPD ¶ 258 at 7.

Here, the protester did not suffer any competitive prejudice because the evaluation was not materially affected by any failure to consider the stock transaction. Thus, even if VJFS had communicated to the agency that J&J would likely be subject to a stock purchase in the near future, the record shows that the agency's evaluation would not have changed such that IAP would have been in a better competitive position. See Supp. MOL at 4 (agency's evaluation was not materially impacted by the stock purchase of J&J). Accordingly, we deny this protest allegation.

VJFS's Corporate Experience and Past Performance

IAP also challenges the agency's evaluation of VJFS's proposal, asserting that VJFS should have been evaluated less favorably under both the corporate experience and past performance factors because VJFS was formed in November 2018 and lacks any record of performing as a joint venture. Protest at 19. According to IAP, when evaluating a joint venture, the RFP established a preference for past performance and experience attributable to the joint venture, as opposed to the individual members. *Id.* In response, the Navy asserts that the RFP did not include any preference, and that it reasonably evaluated VJFS's proposal based on the record of performance and experience attributable to its members. MOL at 36-42.

Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria. *Enterprise Servs., LLC et al.*, B-415368.2 *et al.*, Jan. 4, 2018, 2018 CPD ¶ 44 at 11. An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *Id.* at 11-12.

For corporate experience, the RFP instructed offerors to identify a maximum of five referenced contracts demonstrating experience with projects of similar size, scope, and complexity. AR, Tab 1, Conformed RFP at 463. To be considered relevant, the RFP instructed that contracts should include multiple technical specifications, including facility investment, at least one utilities technical specification, and two other technical specifications. *Id.* The referenced contract must also have been performed within the past eight years, and must be valued at more than \$10 million. *Id.*

When evaluating corporate experience, the RFP advised that the agency would examine the extent to which each offeror demonstrates experience in performing relevant contracts. AR, Tab 1, Conformed RFP at 472. As to experience identified by joint ventures, the RFP stated the following:

Projects submitted by Joint Ventures where the Joint Venture firms performed together (either as partners or in a prime-sub relationship) may

be viewed more favorably than projects submitted in which the Joint Venture firms did not perform together.

Id. at 473.

As for past performance, the RFP instructed offerors to identify a contractor performance assessment report system (CPARS) evaluation, or a completed past performance questionnaire (PPQ), for each referenced contract. AR, Tab 1, Conformed RFP at 469. The RFP advised that offerors would be evaluated based on how well they performed the referenced contracts, and whether the projects demonstrated a trend of successful completion of similar tasks, as well as cooperation with government officials. *Id.*

On this record, we have no basis to object to the agency's evaluation of VJFS's corporate experience or past performance. VJFS identified five referenced contracts and, consistent with the agency's evaluation, each referenced contract demonstrated experience performing similar tasks and functions. See AR, Tab 3, VJFS Technical Proposal § C.1; AR, Tab 6, Technical Evaluation Team (TET) Report at 28-41, 65-66. Indeed, one of VJFS's referenced contracts demonstrates that one of the members of the joint venture provided very similar base operations support services, including facility and utility management services. Compare AR, Tab 3, VJFS Technical Proposal § C.1.3 (VJFS member provided operations and maintenance services for [DELETED] base) with AR, Tab 1, Conformed RFP at 62-148 (selected contractor would be required to provide operations and maintenance support services).

Further, the reviewing agency characterized VJFS's teaming member as performing exceptionally well, and obtaining a near perfect record on quality performance indicators. See AR, Tab 3, VJFS Technical Proposal § C.5.3. Additionally, another one of VJFS's referenced contracts demonstrates that one of its members performed nearly identical base operations support services, and was evaluated as having an exceptional record of performance. *Id.* §§ C.1.4, C.5.4. Thus, we find that the agency reasonably evaluated VJFS's proposal favorably under these two factors because VJFS demonstrated experience and an exceptional record of performance on contracts involving very similar functions to the instant acquisition.

With regard to the protester's specific complaint that the RFP required the agency to evaluate VJFS's performance less favorably because it relied entirely on the performance history of its individual members, we are not persuaded. See Comments and Supp. Protest at 7-8. As the agency points out, the RFP provided the agency with discretion when evaluating joint ventures' corporate experience and past performance because it provided that projects performed by the joint venture, as opposed to projects performed by the joint venture's individual members, "may be viewed more favorably." AR, Tab 1, Conformed RFP at 473; MOL at 38-39. Because the RFP did not mandate that the agency evaluate the experience and past performance records of an individual member less favorably (or otherwise assign a penalty for failing to provide experience and past performance attributable to the joint venture), we do not find that the agency's

evaluation was inconsistent with the RFP. See *MD Helicopters, Inc.; AgustaWestland, Inc.*, B-298502 *et al.*, Oct. 23, 2006, 2006 CPD ¶ 164 at 16 (RFP did not require that proposals be given favorable consideration for each element exceeded because “the RFP stated only that the agency ‘may’ (not shall) more favorably consider proposed solutions that exceed the SOW”). Accordingly, we deny the protest allegation.²

IAP’s Utilization of Small Businesses

IAP alleges that the Navy unreasonably evaluated its proposal under the small business utilization factor. IAP asserts that its proposal was assessed multiple strengths and no weaknesses for this factor, and that therefore its proposal merited an “outstanding” rating under the solicitation’s evaluation criteria. Protest at 22.

As background, the RFP instructed offerors to submit a short narrative describing their achievements in supporting small business participation. AR, Tab 1, Conformed RFP at 468. Offerors were instructed to submit small business subcontracting information for each project identified under the corporate experience factor. *Id.* Offerors were also instructed to submit a “small business participation and commitment” document specifying its strategy for utilizing small business participation. *Id.*

When evaluating proposals under this factor, the RFP advised that offerors would be assessed based on both their achievements and their strategy. AR, Tab 1, Conformed RFP at 474. With regard to offerors’ strategies, the RFP explained that offerors would be assessed based on the following: (1) quantitative degree of small business participation; (2) whether small businesses are identified by name and socioeconomic category in the proposal; (3) level of small business commitment; (4) complexity and variety of work assigned to small businesses; and (5) likelihood of success in achieving small business objectives. *Id.*

On this record, we have no basis to object to the agency’s evaluation. We note that adjectival descriptions and ratings serve only as a guide to, and not a substitute for, intelligent decision-making. *ValidaTek-CITI, LLC*, B-418320.2 *et al.*, Apr. 22, 2020, 2020 CPD ¶ 149 at 10. Thus, the relevant question is not whether the Navy unreasonably assigned a rating of “good” as opposed to a rating of “outstanding,” but whether the underlying evaluation record was reasonable. See *id.*

² To the extent the protester alleges that the agency’s evaluation failed to consider what portions of the contracts VJFS’s members completed (*i.e.*, whether VJFS’s members completed 100 percent of the work, or some lesser amount), we deny that allegation. See Protester’s Comments and Supp. Protest at 11. Although the agency did not specifically discuss that aspect when comparing proposals, the evaluation record shows that the agency documented the “percent of work self-performed,” and was therefore aware of and considered the portions of work members completed when evaluating VJFS’s corporate experience. AR, Tab 6, TET Report at 28-41.

Here, the record shows that the Navy reviewed IAP's small business utilization proposal, and assigned three strengths and no weaknesses. AR, Tab 6, TET Report at 54-55. The record shows that the agency considered both IAP's identified achievements and strategy in significant detail. *Id.*; see also MOL at 44-45. Further, IAP does not identify any aspect of its small business utilization proposal that the agency unreasonably evaluated or misconstrued. See Protest at 22; see generally Protester's Comments and Supp. Protest. Thus, although IAP may assert that its proposal merited a higher rating, we do not find the agency's evaluation objectionable because our review shows that the Navy thoroughly and reasonably reviewed IAP's proposal under this factor. Accordingly, we deny the protest allegation.

Source Selection Decision

IAP alleges that the Navy unreasonably conducted the tradeoff analysis when selecting VJFS for award. Protest at 22-25. Specifically, IAP argues that the Navy unreasonably determined that IAP's and VJFS's past performance proposals were essentially equal, and that IAP's technical proposal only had a slight advantage over VJFS's technical proposal. Protester's Comments and Supp. Protest at 8-9.

Our Office will review an agency's source selection decision to ensure that it is reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. *ADNET Sys., Inc.*, B-413033, B-413033.2, Aug. 3, 2016, 2016 CPD ¶ 211 at 17. The evaluation of proposals and consideration of their relative merits should be based upon a qualitative comparison of the proposals consistent with the evaluation scheme. *Altavian, Inc.*, B-417701, B-417701.2, Sept. 17, 2019, 2019 CPD ¶ 323 at 9. A protester's disagreement with a source selection official's judgment does not demonstrate that those judgments are unreasonable. *Nova Builders*, B-402091 *et al.*, Jan. 19, 2010, 2010 CPD ¶ 33 at 10.

Here, the SSDD shows that the SSA reviewed the TET and SSAC reports, compared the assessments against the evaluation criteria, and independently determined that VJFS's proposal offered the best value. AR, Tab 8, SSDD at 1. While IAP argues that the Navy did not meaningfully compare the proposals in determining that VJFS's proposal represented the better value, we are not persuaded because the record shows that the agency comprehensively compared IAP's and VJFS's proposals.

For example, the agency concluded that each offeror had a similar level of experience because it compared the technical specifications describing the work each offeror had previously performed. See AR, Tab 7, SSAC Report at 7 (noting that IAP demonstrated performance in 12 of the 14 technical specifications on four relevant projects and had experience in steam and chiller specifications on each of those contracts, and that VJFS demonstrated performance in 11 of the 14 technical specifications on [DELETED] and had experience in steam and chiller specifications on [DELETED] projects). Additionally, the agency compared the records of past performance, and determined that the likelihood of success was similar because, even though IAP had more relevant past performance, both offerors had a strong history of exceptional performance. *Id.*

at 8 (“While IAP had more Very Relevant projects, both offerors presented a very strong history of past performance, providing the Government a high expectation that both would successfully perform the required effort.”); see *also* AR, Tab 6, TET Report at 63, 65-66 (identifying each offeror’s record for quality of past performance).

Based on these observations, the SSA determined that VJFS’s proposal represented the better value because it was \$14.2 million cheaper, IAP’s technical proposal only had a slight technical advantage, and the RFP’s evaluation criteria advised that the technical factors, when combined, were equal in weight to the price factor. AR, Tab 8, SSDD at 3-5. Thus, consistent with the agency’s position, we conclude that the SSA reasonably made the tradeoff decision after comparing the features offered by both proposals in accordance with the RFP’s evaluation criteria. See MOL at 45-47. Although IAP may complain that it had more relevant past performance and experience that outweighed VJFS’s price advantage, that argument merely disagrees with the agency’s judgment regarding the relative worth of IAP having more relevant contracts, and does not provide us with a basis to sustain the protest. See *Nova Builders, supra*. Accordingly, we deny the protest allegation.

Finally, we dismiss IAP’s allegation that the SSA’s tradeoff analysis was unreasonable because the decision was predicated on unreasonable technical and past performance evaluations. Protester’s Comments and Supp. Protest at 14. We dismiss this allegation because it is derivative of the protester’s previous technical and past performance challenges, which we have denied. *Safeguard Base Operations, LLC*, B-415588.6, B-415588.7, Dec. 14, 2018, 2018 CPD ¶ 426 at 4 (derivative allegations do not establish independent bases of protest).

The protest is denied.

Thomas H. Armstrong
General Counsel