

## Decision

**Matter of:** Vedetta 2 Mondialpol S.p.A.

**File:** B-420161

**Date:** December 15, 2021

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### DIGEST

1. Protest that the agency unreasonably found the protester's proposal unacceptable under the key personnel factor is denied where the protester fails to show that the agency's evaluation is unreasonable or inconsistent with the terms of the solicitation.
2. Protest that the evaluation was tainted by unclear solicitation terms is dismissed where the solicitation's language is not patently ambiguous, and the protester did not protest the terms of the solicitation for lack of clarity or for ambiguity until after the closing time for receipt of proposals.

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### DECISION

Vedetta 2 Mondialpol S.p.A., of Como, Italy, protests the award of a contract to CIVIS S.p.A. of Vicenza, Italy under request for proposals (RFP) No. W912PF-21-R-0002, issued by the Department of the Army for non-personal armed security guard services. Vedetta argues, first, that the agency unreasonably evaluated its proposal as unacceptable, and second, that the solicitation did not describe the agency's requirements with sufficient clarity, even as amended.

We deny the protest.

### BACKGROUND

On March 23, 2021, the agency issued the RFP pursuant to Federal Acquisition Regulation parts 12 (Acquisition of Commercial Items) and 15 (Contracting by

Negotiation). Agency Report (AR), Tab 4, RFP at 1.<sup>1</sup> The RFP sought armed security guard services to protect and prevent unauthorized access to Army installations in Italy. RFP at 50.

The RFP provided for award on a lowest-price, technically acceptable basis, considering price and the following non-price factors: (1) key personnel; (2) experience; and (3) past performance. RFP at 98. The solicitation advised that the non-price factors would be evaluated as acceptable or unacceptable, where a proposal that “does not clearly meet the minimum requirements of the solicitation” would be assessed an unacceptable rating. *Id.* at 98-99.

Among the non-price factors, only the key personnel factor is at issue here, under which the RFP provided that for the program manager, also referred to as the chief of guards, and the area manager, also referred to as the operations/training officer, proposals should “[i]nclude evidence of the following: [m]inimum of five (5) years of security or law enforcement administration experience in the armed forces, civilian police, or commercial security agencies.” *Id.* at 99. The RFP advised that supervisors should provide evidence of a minimum of two years’ “experience acquired in the field of security or law enforcement administration. . . .” *Id.* The solicitation cautioned that award would be made on an “all or none” basis to the offeror that submitted the lowest-priced, technically acceptable proposal. *Id.* at 98.

On May 11, 2021, four offerors submitted proposals. Memorandum of Law (MOL) at 3. On May 18, the Source Selection Evaluation Board (SSEB) rated all proposals as unacceptable; the agency consequently established a competitive range, opened discussions, and issued evaluation notices to offerors, including the protester. *Id.* The protester received three evaluation notices, alerting the protester to issues with three of its proposed key personnel, each of whom failed to meet the solicitation’s requirements for security experience. MOL at 4-5.

On or before the June 4 due date for submissions, all four offerors submitted revised proposals in response to the evaluation notices. MOL at 4. The SSEB evaluated the revised proposals and found that while the protester successfully addressed the evaluation notice regarding the proposed alternate program manager, it did not add the required experience information for the other two personnel. *Id.*

The agency decided to revise the solicitation language for the key personnel factor, and on July 23, 2021, the Army issued an amendment to the solicitation, with revised proposals due August 10. MOL at 4; see AR, Tab 8, RFP amend. 4. The amended solicitation removed the phrase “security or law enforcement administration” from the description of the experience requirement, and made the following changes:

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<sup>1</sup> The agency amended the RFP four times. Citations to the RFP refer to the original solicitation.

The Program/Contract Manager shall have a *minimum* five (5) years of *armed* security experience in the armed forces, civilian police, or commercial *armed* security agencies *within the last five (5) years* to successfully perform this requirement. . . . Area Managers shall have a *minimum* five (5) years of *armed* security experience in the armed forces, civilian police, or commercial *armed* security agencies *within the last five (5) years* to successfully perform this requirement. . . . Supervisors must have a *minimum* of two (2) years' *armed* security experience in the armed forces, civilian police, or commercial *armed* security agencies *within the last five (5) years*.

AR, Tab 8, RFP amend. 4 at 111. In making these changes, the agency reasoned that “security or law enforcement administration” could be interpreted in different ways and that the newer edits directed offerors towards the agency’s need for individuals with experience acting as armed security guards, rather than employees whose experience was acting in an administrative role. Contracting Officer’s Statement (COS) at 5.

On or by August 10, the offerors, including the protester, submitted their final proposals. The SSEB once again found Vedetta’s proposal unacceptable because “its key personnel did not meet the armed security experience requirements.” MOL at 5. The agency made award to CIVIS, an offeror whose proposal was rated technically acceptable. *Id.* On September 7, the protester received a debriefing regarding its unsuccessful proposal.

This protest followed on September 15.

## DISCUSSION

Vedetta challenges the agency’s evaluation of its proposal, asserting that the agency unreasonably found its proposal unacceptable under the key personnel factor. Protest at 1-3; Comments at 2-3. The protester also argues that the agency “didn’t explain in [the definitions section of the solicitation] what [armed security experience] meant,” so that the solicitation, as amended, was ambiguous. Protest at 3. We have reviewed all of Vedetta’s allegations and find no basis to sustain its protest.

### Key Personnel

The protester asserts that all of the individuals included in the key personnel section of its proposal have the requisite five years of armed security experience “even if – luckily – their duties in the past five years didn’t force or obligate[] them [to] use weapons.” Protest at 2. The protester takes issue with the agency’s rating of unacceptable for three of Vedetta’s proposed personnel: a program manager, an alternate program manager, and an area manager. The protester argues that the proposed program manager has experience in leadership development; carries out inspection duties, such as “verification of the execution of all shooting exercises”; and is “responsible for every security guard” in his company. *Id.* The protester contends that the proposed alternate

program manager is experienced in leadership development, and as an operation manager, has “responsibility over 550 security guards.” *Id.* The protester argues that a proposed area manager has “advanced security training” and has, at some point in his career, “conducted musters” and “supervised guard forced skills.” *Id.* The protester emphasizes that all three have valid gun licenses. *Id.*

The agency responds that the proposed key personnel “had, at best, a tangential relationship to duties and responsibilities *in* the armed forces, civilian police, or commercial security agencies.” MOL at 13. The agency points out that the protester had a chance to revise its proposal when it received the evaluation notices, but that it did not successfully address those notices. *Id.* The agency asserts that the protester actually “lowered [the proposed program manager’s] combined years of experience. . . and included additional information regarding his day-to-day responsibilities as [c]ash [m]anager, [a]udit [m]anager, [l]icense [h]older [r]epresentative, CEO [chief executive officer], and [l]ogistics [m]anager.” *Id.* The agency asserts that after the SSEB’s final evaluation, the proposed program manager’s resume still demonstrated experience in administrative or business responsibilities, not the armed security experience required by the solicitation. *Id.* at 14. The agency also argues that the proposed alternate program manager’s background did not meet the solicitation’s minimum standards because “his duties within the past five years largely involved human resources management.” *Id.* The agency also contends that the proposed area manager’s background consists of executive management, but not armed security experience in the armed forces, civilian police, or commercial armed security agencies, as required by the solicitation. *Id.* at 15.

The protester responds that all three personnel met the solicitation criterion of five years of armed security experience “since they all worked in armed security agencies and they all have, or have had in the last years, armed security experience.” Comments at 2. The protester argues that the proposed program manager’s gun license shows he is capable of acting as armed security, that his prior trainings correspond to the solicitation requirements, and that his work experience, like his responsibility for security guards and his inspections that helped verify legal compliance, satisfy the solicitation requirements. *Id.* at 2-3. The protester further asserts that the proposed alternate program manager’s experience, including his experience as an operation manager “with security responsibility over 550 security guards” and prior relevant trainings, not specified by date, meet the solicitation requirements. *Id.* at 3. The protester contends that the proposed area manager’s experience, as described above, also satisfies the solicitation requirements. *Id.*

In reviewing a protest challenging an agency’s evaluation, our Office will 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. *ADNET Sys., Inc.*, B-413033, B-413033.2, Aug. 3, 2016, 2016 CPD ¶ 211 at 7. Rather, we will review the record to determine whether the agency’s evaluation was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. *MVM, Inc.*, B-407779, B-407779.2, Feb. 21, 2013, 2013 CPD ¶ 76 at 6. A protester’s

disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was unreasonable. *Journey Aviation LLC*, B-419368.2, B-419368.3, June 2, 2021, 2021 CPD ¶ 224 at 4-5. Furthermore, offerors are responsible for submitting a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation and allows for a meaningful review by the procuring agency. *Microwave Monolithics, Inc.*, B-413088, Aug. 11, 2016, 2016 CPD ¶ 220 at 6.

Based upon our review of the record, we find that the agency's evaluation was reasonable and consistent with the terms of the solicitation, as amended. The solicitation originally required a certain number of years of "security or law enforcement administration experience in the armed forces, civilian police, or commercial security agencies." RFP at 98-99. The amended solicitation paints a clearer picture, requiring "armed security experience in the armed forces, civilian police, or commercial armed security agencies." AR, Tab 8, RFP amend. 4 at 111. In our view, the removal of "administration experience" reasonably alerted potential offerors that the agency's requirement for "armed security experience" would not be satisfied by personnel whose experience involved administration or supervision of armed guards.

With respect to the protester's suggestion that the required experience could be inferred from the training identified in Vedetta's proposal for its personnel, the Army concluded that the trainings were not dated, making it difficult to determine which trainings occurred in the previous five years. COS at 9-10. Moreover, we agree with the agency's position that "training, by itself, does not meet the minimum experience requirements for armed security experience in the armed forces, civilian police, or commercial armed security agencies." COS at 9. In this regard, oversight and administrative roles, like the ones the record shows Vedetta's relevant personnel occupied, do not appear to satisfy the solicitation requirement for armed security experience. The protester's disagreement with the agency's award decision is insufficient to show the evaluation was unreasonable. *Journey Aviation, supra*. Accordingly, we deny this ground of protest.

#### Armed Security Experience

The protester also asserts that the solicitation did not sufficiently describe or clarify what the agency required in seeking armed security experience. Protest at 3. Specifically, the protester argues that the agency "didn't explain in [the definitions section of the solicitation] what [armed security experience] meant" and contends that this complaint should justify our Office sustaining the protest. Protest at 3.

The agency responds that, to the extent that the protester is alleging an ambiguity regarding the meaning of armed security experience, there was no ambiguity. MOL at 5. The agency asserts that the amended solicitation clarified the need for "armed security experience" and contends that the only reasonable interpretation of this term is that the "Army required experienced armed security guards that could supervise other armed security guards, not office administrators." MOL at 7-10. We agree.

However, the protester did not timely protest the RFP's terms, either for lack of clarity or for ambiguity. Our Bid Protest Regulations contain strict rules for the timely submission of protests. 4 C.F.R. 21.2(a)(1). Our timeliness rules require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals or quotations be filed before that time. 4 C.F.R. § 21.2(a)(1); *Sikorksky Aircraft Corp.*, B-416027, B-416027.2, May 22, 2018, 2018 CPD ¶ 177 at 6. A patent ambiguity, which is considered to be apparent from the face of the solicitation, must be protested prior to the closing time for receipt of proposals to be considered timely.<sup>2</sup> 4 C.F.R. § 21.2(a)(1). We must therefore first consider whether the solicitation was ambiguous, and if so, whether the ambiguity was patent.

An ambiguity exists where two or more reasonable interpretations of the terms or specifications of the solicitation are possible. *Office Design Grp.*, B-415411, Jan. 3, 2018, 2018 CPD ¶ 43 at 3. As a general matter, where a dispute exists as to the meaning of a particular solicitation provision, our Office will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of the provisions; to be reasonable, an interpretation must be consistent with such a reading. *ArmorWorks Enters., LLC*, B-405450, Oct. 28, 2011, 2011 CPD ¶ 242 at 3. A party's particular interpretation need not be the most reasonable to support a finding of ambiguity; however, a party needs to show, at a minimum, that its reading of the solicitation provisions is reasonable and susceptible of the understanding it reached. *RELI Grp., Inc.*, B-412380, Jan. 28, 2016, 2016 CPD ¶ 51 at 6.

We find that the language in question is not ambiguous. We agree with the agency that the only reasonable interpretation of "armed security experience" is that the solicitation required personnel whose experience included acting as armed security guards. Moreover, the protester has not offered any clear statement to rebut the agency's interpretation, beyond arguing generally that experience as an armed security guard was not expressly required. We conclude that the agency's interpretation of the solicitation is the only reasonable interpretation, and that the evaluation was consistent with the RFP.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

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<sup>2</sup> While a latent ambiguity, not apparent from the face of the solicitation, may be protested after the proposal submission deadline, this rule is inapposite here, since we do not find an ambiguity of any kind, as discussed herein. Even were we to agree that the solicitation was ambiguous--which we do not--the allegations here do not support a claim for latent ambiguity.