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**United States Government Accountability Office  
Washington, DC 20548**

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# Decision

**Matter of:** B&B Medical Services, Inc.

**File:** B-409705.2

**Date:** April 17, 2015

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Richard L. Moorhouse, Esq., Greenberg Traurig, LLP, for the protester.  
Lawrence J. Sklute, Esq., Sklute & Associates, for the intervenor.  
Tracy Downing, Esq., Department of Veterans Affairs, for the agency.  
Frank Maguire, Esq., and David A. Ashen, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest that awardee's price was unrealistically low is denied where agency's price realism determination was based on a comparison of prices among offerors and with the government estimate, and the agency reasonably concluded that the awardee's overall price, which was approximately only 4.7% lower than the protester's, was realistic.

2. In a fixed price acquisition, awardee's individual contract line item number price of \$0.00 was compliant with the solicitation where awardee's proposal indicated a commitment to furnish the item in question.

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## DECISION

B&B Medical Services, Inc. (B&B), of Oklahoma City, Oklahoma, protests the Department of Veterans Affairs' (VA) award of a contract to Greene Respiratory (Greene), of Milford, Ohio, under request for proposals (RFP) No. VA249-14-R-0173, for home oxygen services. B&B asserts that the awardee's proposed prices were unrealistically low.

We deny the protest.

## BACKGROUND

The RFP, issued on March 11, 2014, as a total small business set-aside, provided for the award of indefinite-delivery/indefinite-quantity contracts, with a 1-year base period and four 1-year options, for the provision of home oxygen services to patients

in Veterans Integrated Service Network 9 (VISN 9), including, as relevant here, medical centers in Lexington, Kentucky, Louisville, Kentucky, and Huntington, West Virginia. RFP at 8, 66, attach. A. B&B was the incumbent contractor for the Huntington and Louisville locations. Comments and Supp. Protest at 3. Award was to be made for each area of consideration to the offeror whose proposal represented the best value to the government considering (in descending order of importance): (1) technical capability, (2) past performance, (3) socio-economic status, and (4) price. RFP at 59, 66. All non-price factors when combined were significantly more important than price. Id.

Proposals were received for all locations in response to the RFP, including B&B's Contracting Officer's Statement (COS) at 2. Based on the evaluation of proposals, Greene's proposal was found to be most advantageous for the Huntington, Lexington, and Louisville locations. COS at 2. The proposed prices for the three locations were as follows:

<b>Offeror</b>	<b>Lexington VAMC</b>	<b>Louisville VAMC</b>	<b>Huntington VAMC</b>	<b>Total</b>
B&B	\$7,488,385.00	\$4,303,066.15	\$6,601,253.70	\$18,392,704.00
Greene	\$7,077,050.00	\$3,983,100.00	\$6,466,015.00	\$17,526,165.00
Offeror A	\$6,397,045.00	\$4,198,780.00	\$6,537,505.00	\$17,133,330.00
Offeror B	\$7,885,922.00	\$4,776,499.20	\$6,465,662.50	\$19,128,083.70
Offeror C	\$5,113,725.00	\$2,821,064.00	\$4,481,325.00	\$12,416,114.00
Offeror D	\$7,588,771.01	\$3,733,178.61	---	\$11,321,949.62
Offeror E	\$7,603,775.00	\$4,203,401.00	\$6,569,900.00	\$18,377,076.00
Gov't Estimate	\$12,477,035.36	\$5,514,966.74	\$5,717,382.07	\$23,709,384.17

COS at 6-7; see also AR at 7. Upon learning of the resulting award to Greene and award prices, B&B filed this protest with our Office.<sup>1</sup>

## DISCUSSION

B&B asserts that Greene's proposed prices were unrealistically low and that the awardee's proposal should have been rejected. Protest 2-6. In this regard, the RFP provides as follows:

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<sup>1</sup> The agency asserts that the protest is untimely because it was filed more than 10 days after the pre-award notice of the intended small business awardee. ARSD at 5-8. We disagree. B&B's grounds for protest focus on the awardee's contract price. The awardee's total price, however, first became available to the protester on December 31, 2014, when the award notice was posted on the FedBizOpps website. Protest, exh. B. This protest was filed within 10 days of that award notice and therefore is timely. 4 C.F.R. § 21.2(a)(2).

Proposals unrealistically high or low in price, when compared to the Government estimate, and market conditions evidenced by other competitive proposals received, may be indicative of an inherent lack of understanding of the solicitation requirements and may result in proposal rejection without discussion.

RFP at 65.

B&B asserts that, as the incumbent contractor for two of the three locations awarded to Greene, it has “developed an effective methodology” to meet the requirement. Protest at 5. According to the protester, the “pricing differential” between its price and Greene’s price “clearly indicates that Greene’s pricing is unrealistically low, that is, unrealistic as to Greene’s understanding of the home oxygen requirements of the Solicitation, which are far better known to B&B which has been performing them than to Greene.” Id. The VA states that its price realism analysis was based on a comparison of each price proposal to the price proposal of the other offerors, as well as a comparison of proposed prices with the independent government estimate (IGE). Supp. AR at 2-7.

As a general matter, when awarding a fixed-price contract, an agency is only required to determine whether offered prices are fair and reasonable. Federal Acquisition Regulation (FAR) § 15.402(a). Price realism need not necessarily be considered in evaluating proposals for the award of a fixed-price contract, because these contracts place the risk of loss upon the contractor rather than the government. However, an agency may include in a solicitation a provision which provides for a price realism evaluation for the purpose of assessing whether an offeror’s low price reflects on its understanding of the contract requirements. FAR §15.404-1(d); General Dynamics One Source, LLC; Unisys Corp., B-400340.5, B-400340.6, Jan. 20, 2010, 2010 CPD ¶ 45 at 9. Where a solicitation provides for a price realism evaluation, as here, the depth of an agency’s evaluation in this regard is a matter within the sound exercise of the agency’s discretion. Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 4-5. In reviewing protests challenging price realism evaluations, our focus is on whether the agency acted reasonably and in a manner consistent with the solicitation’s requirements. General Dynamics One Source, LLC; Unisys Corp., supra.

The FAR recognizes a number of price analysis techniques that may be used to determine whether prices are reasonable and realistic, including a comparison of proposed prices with each other and with an IGE. See FAR §§ 15.404-1(b)(2)(i), (ii), (iv); Islandwide Landscaping, Inc., B-293018, Dec. 24, 2003, 2004 CPD ¶ 9 at 2; Quality Elevator Co., Inc. B-276750, July 23, 1997, 97-2 CPD ¶ 28 at 7. Our Office has recognized that a price realism evaluation must consider the unique technical approaches proposed by each offeror, Solers Inc., B-409079, B-409079.2, Jan. 27,

2014, 2014 CPD ¶ 74 at 7; an agency may not mechanically apply its own estimates to an offeror's proposal without considering the offeror's unique approach. See generally, Lifecycle Constr. Servs., LLC, B-406907, Sept. 27, 2012, 2012 CPD ¶ 269 at 7-8 n.14; Team BOS/Naples--Gemmo S.p.A./DeJen, B-298865.3, Dec. 28, 2007, 2008 CPD ¶ 11 at 12-16; Honeywell Tech. Solutions, Inc.; Wyle Labs., Inc., B-292354, B-292388, Sept. 2, 2003, 2005 CPD ¶ 107 at 11-12.

Where offerors take a similar approach to meeting the solicitation requirements, however, our Office has generally not objected to a price realism analysis that focuses on a comparison of an offeror's price to the government estimate and the prices of other offerors. See, e.g., Alcazar Trades, Inc.; Sparkle Warner JV, LLC, B-410001.4, B-410001.5, Apr. 1, 2015, 2015 CPD ¶ \_\_\_ at 5; AMEC Earth & Env'tl., Inc., B-404959.2, July 12, 2011, 2011 CPD ¶ 168 at 8.

B&B's price realism argument focuses primarily on the overall price differential between Greene's and B&B's proposals. In this regard, however, Greene's prices were only approximately 5.5% lower than B&B's price for Lexington, approximately 7.4% lower for Louisville, approximately 2.0% percent lower for Huntington, and approximately 4.7% lower overall. B&B cites no case in which we have found pricing to be unrealistic based solely on price differentials of this magnitude, and we are aware of none. See, e.g., CGI Fed. Inc., B-410330.2, Dec. 10, 2014, 2014 CPD ¶ 366 at 14-15 (proposed prices that were within 14 percentage points of each other in a range from 18.5% to 32.5% below the historical price provided agency with a reasonable basis for concluding that none of the offerors' proposed prices were unrealistic). Further, B&B has not demonstrated that its proposal included any unique technical approaches such that Greene's overall prices were unrealistic notwithstanding their close proximity to B&B's overall prices. We find no basis to sustain the protest.

B&B also notes certain contract line item numbers (CLIN) for which Greene's prices are higher than B&B's prices. Comments and Supp. Protest at 6. B&B asserts, for example, that with respect to a comparison of the CLIN pricing for the Louisville VAMC, "Greene's unit price is higher than B&B's for 13 of the 21 CLINS." Id. We find this unpersuasive. Initially, we note that the solicitation did not require an in-depth CLIN-by-CLIN analysis. See Vizada Inc., B-405251 et al., Oct. 5, 2011, 2011 CPD ¶ 235 at 5; see also R3 Gov't Solutions LLC, B-404863.2, Sept. 28, 2012, 2012 CPD ¶ 284 at 6. In any case, it is not clear how the fact that Greene's proposed prices for selected CLINs were higher than B&B's proposed prices for those CLINs demonstrates that Greene does not have a sufficient understanding of the contract requirements. Again, we find no basis to sustain the protest.

Finally, B&B asserts that Greene offered "an illusory price" for CLIN No. 2, making its offer "materially ambiguous." Comments and Supp. Protest at 7. In this regard, B&B points out that Greene entered a price of zero for CLIN No. 2, as well as an entry of "\$Included in Item 1," for all locations. AR, exh. S, Greene Proposal, at 10-27. For example, Greene's entry for the Louisville location read as follows:

Item No.	Description	Est. Quantity	Unit of Issue	Unit Price	Total Yearly Estimated Amount
1	Rental of Oxygen Concentrator 5 Liter	4942	EA	[deleted]	[deleted]
2	Rental of Portable "E" System and/or/ M-6 System	5868	EA	\$0.00	\$Included in Item 1

Greene Proposal at 10.

The protester argues that the "only logical reading" of Greene's entry in CLIN No. 2 is that "Greene would provide the VA a CLIN 2 portable oxygen system at no charge if the VA ordered a CLIN 1 oxygen concentrator at a price of [deleted]." Comments and Supp. Protest at 4. According to the protester, "Greene's price proposal does not indicate what price it would charge for CLIN 2 items if they were ordered separately, or what price it would charge if ordered along with any other CLIN item besides CLIN 1." Id. at 5.

The agency challenges B&B's interpretation of Greene's CLIN No. 2 entry, maintaining that Greene's proposal

clearly shows that when formulating its offer for this firm fixed price contract, Greene assumes the risk that where the Agency does not order CLIN 1 but orders CLIN 2, Greene is still obligated to charge \$0.00 for CLIN 2 as this is the manner in which it chose to price its proposal, i.e., by including the price for CLIN 2 in the price for CLIN 1.

Supp. AR at 5. The agency further asserts that by offering a price of "\$0.00" for CLIN No. 2, Greene indicated its intent to supply all items required by the solicitation. Id., citing Mark Dunning Indus., B-405417, Oct. 6, 2011, 2011 CPD ¶ 207 at 2 (protest that low bid should be rejected as nonresponsive because it did not include a price for two line items denied where dashes were inserted in the line items and the bid noted that the items would be provided at no charge or at \$0.00). Likewise, Greene states with regard to its CLIN No. 2 entry that:

such language--"\$ included in Item 1"--merely indicates that Greene, as the incumbent contractor, chose to include its price for CLIN 2 into CLIN 1 based on its professional expertise and business judgment in anticipating a variety of influences affecting performance costs, and therefore Greene assumes the risk that if the VA does not order CLIN 1, Greene is obligated to charge the Government \$0.00 for CLIN 2 in this firm fixed price procurement.

Intervenor Supp. Comments at 2.

We find the agency's interpretation of Greene's CLIN 2 pricing to be reasonable. Our cases have previously indicated that, in fixed price acquisitions, individual CLIN prices of \$0.00 are not generally objectionable or inherently unrealistic. See, e.g., GTSI Corp., B-286979, Mar. 22, 2001, 2001 CPD ¶ 55 (entry of \$0.00 for program manager CLINs, as a legal matter, signaled offeror's awareness of the requirement, and its agreement to be bound to perform it, thus satisfying the RFP's requirement that offerors propose to perform all required CLINs); Brewbaker White Sands JV, B-295582.4, Oct. 5, 2005, 2005 CPD ¶ 176 at 3 (there is nothing improper in an offeror electing not to charge for certain items or services; where an offeror indicates a commitment to furnish the item in question by inserting "\$0.00" in its proposal, its proposal is compliant). In our view, the agency reasonably viewed Greene's entry in the total amount column of "\$Included in Item 1" as simply an explanation of its "\$0.00" unit price for CLIN No. 2, and not as a qualification of that price. We conclude that the agency reasonably found Greene's pricing for CLIN No. 2 offered to furnish the item in that CLIN without charge.

The protest is denied.

Susan A. Poling  
General Counsel