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**Comptroller General  
of the United States**

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

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## Decision

**Matter of:** Ahtna Facility Services, Inc.

**File:** B-404913; B-404913.2

**Date:** June 30, 2011

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Robert K. Tompkins, Esq., Elizabeth M. Gill, Esq., and Joshua Clause, Esq., Patton Boggs LLP, for the protester.

Erica S. Beardsley, Esq., Department of the Army, for the agency.

Glenn G. Wolcott, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Agency reasonably determined that protester's proposal contained multiple deficiencies and significant weaknesses that rendered the proposal technically unacceptable, and properly excluded the proposal from the competitive range.
  2. Agency's discussions with protester were meaningful where they reasonably led protester into the areas of its proposal that reflected deficiencies and significant weaknesses.
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### DECISION

Ahtna Facility Services, Inc. (AFSI), of Anchorage, Alaska, protests the Department of the Army's exclusion of AFSI's proposal from the competitive range under request for proposals (RFP) No. W81K04-11-R-0005 to provide healthcare environmental services for the San Antonio Military Medical Center-North (SAMMC-N) and other medical facilities at or around Fort Sam Houston, Texas. AFSI protests the agency's determination that AFSI's proposal was technically unacceptable, further maintaining that the agency improperly excluded AFSI's proposal from the competitive range, that the agency's discussions were inadequate, and that the agency was biased in its conduct of this procurement.

We deny the protest.

## BACKGROUND

In December 2010, the agency published the solicitation at issue, seeking proposals to provide healthcare environmental services for SAMMC-N and other nearby medical facilities. Agency Report (AR), Tab 3, RFP at 196. More specifically, the solicitation contemplated award of an indefinite-delivery, indefinite-quantity contract under which fixed-price task orders will be issued to perform various services, including: housekeeping services; collection and distribution of linens; collection, consolidation, packaging, labeling, and preparation of regulated medical waste; collection of general solid waste; collection and transport of recyclable materials; and exterior building services, such as window cleaning and snow removal. Id.

The solicitation provided that the agency would use “the Lowest Price, Technically Acceptable (LPTA) source selection technique” and, consistent with this approach, established two evaluation factors: technical acceptability and price. AR, Tab 7, RFP amend. 3, at 263, 270-71, 279-86. Under the technical acceptability factor, the solicitation established two subfactors, management approach and technical approach, along with various subfactor “components.”<sup>1</sup> Id. The solicitation advised offerors that a technically acceptable proposal is one that “contains no deficiencies or significant weaknesses,” further stating that “any aspect of the proposal judged to be unacceptable may render the entire proposal unacceptable.”<sup>2</sup> Id. at 264-65, 280.

With regard to technical acceptability, the solicitation advised offerors that their proposals must comply with all of the requirements contained in the solicitation’s performance work statement (PWS). Specifically, the solicitation stated, “[a]ll requirements specified in the PWS are mandatory,” and elaborated that “[t]he proposal shall not merely offer to perform work in accordance with the PWS, but shall outline the actual methods proposed as specifically as possible. Id. at 270.

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<sup>1</sup> Under the management approach subfactor, the solicitation listed one component: contract management plan. Under the technical approach subfactor, the solicitation established six components: procedures manual or equivalent; task and frequency work schedule; staffing plan; employee handbook; transition plan; and equipment and supplies listings. RFP amend. 3, at 266.

<sup>2</sup> In evaluating proposals for technical acceptability, the agency categorized proposal flaws as “weaknesses,” “significant weaknesses,” and “deficiencies.” A weakness was defined as “[a] flaw in the proposal that increases the risk of unsuccessful contract performance.” AR, Tab 4, Source Selection Plan, at 32. A significant weakness was defined as “[a] flaw that appreciably increases the risk of unsuccessful contract performance.” Id. at 33. A deficiency was defined as “[a] material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.” Id.

With regard to evaluation of proposals to determine technical acceptability, the solicitation stated, “the Government will use the following evaluation criteria:  
 (1) Compliance with the requirements of the PWS and the solicitation [and]  
 (2) Understanding the requirements of the PWS and the solicitation.” Id. at 281.

On January 18, 2011, proposals were submitted by several offerors, including AFSI. The agency subsequently evaluated AFSI’s initial proposal as technically unacceptable, identifying 19 deficiencies, 4 significant weaknesses, and 8 weaknesses. The agency’s contemporaneous evaluation record summarized the flaws in AFSI’s proposal as follows:

<b>Evaluation Factor/Component</b>	<b>Deficiencies</b>	<b>Significant Weaknesses</b>	<b>Weaknesses</b>
<b>Management Approach</b>		2	3
<b>Technical Approach</b>	8		
<b>Procedures Manual</b>	3		1
<b>Task/Frequency Schedule</b>	4		
<b>Staffing Plan</b>	3	2	1
<b>Handbook</b>			1
<b>Transition Plan</b>			1
<b>Equipment/Supplies</b>	1		1
<b>Total</b>	19	4	8

AR, Tab 9, Initial Evaluation Report, at 12.

By way of example, the agency identified specific deficiencies in AFSI's proposal related to AFSI's procedures manual.<sup>3</sup> Specifically, the agency noted that AFSI's procedures manual failed to identify cleaning procedures for each of seven types of cleaning services identified in the PWS, and that the manual also failed to establish appropriate performance standards and metrics against which AFSI's performance of these required services could be properly measured.<sup>4</sup> AR, Tab 9, Initial Evaluation Report, at 6.

Despite the multiple flaws in AFSI's initial proposal, the agency retained AFSI's proposal in the competitive range and, by letter dated March 2, 2011, opened discussions with AFSI, specifically outlining the various evaluated proposal deficiencies and significant weaknesses. AR, Tab 11, Items for Discussion. Among other things, the agency's March 2 letter expressly advised AFSI that its procedures manual was deficient in that it "did not include the seven (7) types of services

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<sup>3</sup> Under the heading "'Technical Acceptability,'" the solicitation provided that offerors must "[p]rovide a Procedures Manual or equivalent that includes all of the elements in the PWS." RFP amend. 3, at 270-71. In this regard, the PWS further stated:

The Procedures Manual or equivalent shall . . . describe the Contractor's cleaning methodologies using best commercial and industry practices appropriate for the types of cleaning required, detail how the Contractor accomplishes each function of specialized, routine, and project work . . . and demonstrate meaningful and measurable performance metrics that meet or exceed the *AHE* [American Healthcare Environmental] *Practice Guidance for Healthcare Environmental Cleaning* standards.

\* \* \* \* \*

The Procedures Manual or equivalent shall outline industry-accepted (standardized) task procedures for use by Contractor employees in performing healthcare environmental services. The Contractor shall establish performance standards aligned with industry's voluntary consensus standards (VCS) and in compliance with SAMMC-N Pam[phlet] 40-2, Infection Control Manual to meet the PWS requirements.

Id. at 215.

<sup>4</sup> In addition to deficiencies related to AFSI's procedures manual, the agency also evaluated AFSI's proposal as deficient for its failure to include adequate work scheduling information for all of the required PWS tasks, and for its failure to include adequate staffing information for all of the specified requirements. AR, Tab 9, Initial Evaluation Report, at 6-8.

[identified in the PWS],” “failed to include performance standards,” and “failed to include meaningful and measurable performance metrics.”<sup>5</sup> *Id.* at 5-6. On March 4, the agency conducted oral discussions with AFSI, again identifying the various flaws in AFSI’s proposal and responding to various AFSI questions. AR, Tab 13, Memorandum for the Record, Mar. 7, 2011.

On March 9, AFSI submitted its revised proposal. Thereafter, the agency evaluated the revised proposal and concluded that AFSI had resolved some of the multiple proposal flaws, but that many remained. The agency’s evaluation record summarized the remaining flaws as follows:

<b>Evaluation Factor/Component</b>	<b>Deficiencies</b>	<b>Significant Weaknesses</b>	<b>Weaknesses</b>
<b>Management Approach</b>		1	1
<b>Technical Approach</b>	1		
<b>Procedures Manual</b>	3		
<b>Task/Frequency Schedule</b>	4		
<b>Staffing Plan</b>	2		
<b>Handbook</b>			1
<b>Transition Plan</b>			
<b>Equipment/Supplies</b>			
<b>Total</b>	10	1	2

AR, Tab 16, Revised Evaluation Report, at 16.

Among other things, the agency’s revised evaluation again assessed deficiencies related to the inadequacy of AFSI’s procedures manual. In this regard, the agency again concluded that AFSI’s procedures manual failed to adequately establish procedures for each of the PWS’s seven types of cleaning services and, similarly, failed to establish applicable performance standards and metrics against which AFSI’s performance of the required services could be measured.<sup>6</sup> AR, Tab 16, Final Evaluation Report, at 5-7.

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<sup>5</sup> The agency’s written discussions also advised AFSI that its work scheduling information was inadequate and, similarly, that its staffing information failed to provide specific manning information. AR, Tab 11, Items for Discussion, at 6-8.

<sup>6</sup> The agency’s revised evaluation also concluded that AFSI’s proposal remained deficient for failure to provide adequate scheduling and staffing information related to the required PWS services. AR, Tab 16, Final Evaluation Report, at 7-11.

Based on the existence of the ongoing deficiencies in AFSI's revised proposal, the agency determined that the proposal remained technically unacceptable and excluded it from the competitive range. Thereafter, AFSI requested and received a debriefing. This protest followed.

## DISCUSSION

AFSI's protest challenges the agency's determination that AFSI's proposal was technically unacceptable. The protester further maintains that the agency improperly excluded AFSI's proposal from the competitive range following discussions, that the agency's discussions were not meaningful, and that the agency was biased in its conduct of this procurement.

### Technical Unacceptability

In protesting the agency's determination of technical unacceptability, AFSI asserts that its proposal "provided all of the information required by the [s]olicitation and the PWS" and that, "[h]ad the agency properly and fairly evaluated AFSI's [revised proposal], the proposal would have been deemed acceptable." Protest at 12-13. More specifically, AFSI challenges the agency's various assessments of deficiencies and significant weaknesses.

By way of example, AFSI challenges the agency's basis for assessing a deficiency regarding AFSI's failure to include procedures to address each of the seven types of cleaning services identified in the PWS. In this regard, AFSI's initial protest asserts: "The evaluation criteria and the PWS did not require the [offeror's] procedures manual to include specific cleaning procedures that individually addressed seven types of services." Protest at 10. AFSI is mistaken.

Agencies are required to evaluate offers in accordance with a solicitation's stated requirements and evaluation criteria. The Boeing Co., B-311344 et al., June 18, 2008, 2008 CPD ¶ 114 at 38. Where a dispute exists as to the actual requirements of a solicitation, we will first examine the plain language of the solicitation. See, e.g., Carthage Area Hosp., Inc., B-402345, Mar. 16, 2010, 2010 CPD ¶ 90 at 5 n.7; W. Gohman Constr. Co., B-401877, Dec. 2, 2009, 2010 CPD ¶ 11 at 3-4.

As noted above, under the heading "Technical Acceptability," the solicitation expressly directed offerors to "[p]rovide a Procedures Manual or equivalent that includes all of the elements in the PWS." RFP amend. 3, at 270. Further, section 1.7.2.2 of the PWS provided that the procedures manual "shall . . . describe the Contractor's cleaning methodologies using best commercial and industry practices appropriate for the types of cleaning required, [and] detail how the Contractor

accomplishes each function of specialized, routine, and project work.” Id. at 215. Finally, section 5.8.1 of the PWS stated, “The Government has defined seven (7) types of services for areas to be cleaned. The seven (7) types of services are defined below.” Id. at 244. Directly following this provision, PWS sections 5.8.1.1 through 5.8.1.7 contained substantive descriptions for each of the seven required services. Id. at 244-47.

On the record here, we find no merit in AFSI’s assertion that the agency’s assessment of a deficiency was improper because the solicitation “did not require” AFSI’s procedures manual to individually address the procedures to be employed for the seven types of required services. To the contrary, upon review of the solicitation provisions discussed above—including the requirements to “describe the Contractor’s cleaning methodologies . . . for the types of cleaning required” and to “detail how the Contractor accomplishes each function of specialized, routine, and project work”—it is difficult to imagine how AFSI’s obligation could have been more clear. Accordingly, AFSI’s assertion that the solicitation “did not require” AFSI to address each required PWS service is without merit.<sup>7</sup>

Next, AFSI challenges the agency’s assessment of deficiencies flowing from AFSI’s failure to provide performance standards and metrics that are applicable to the various PWS services. In this regard, AFSI asserts that it “provided detailed performance standards and performance metric reporting procedures throughout its revised Technical Proposal.” Protest at 10.

The evaluation of technical proposals is a matter within the agency’s discretion, since the agency is responsible for defining its needs and for identifying the best methods for accommodating those needs. U.S. Textiles, Inc., B-289685.3, Dec. 19, 2002, 2002 CPD ¶ 218 at 2. In this regard, our Office will not reevaluate technical proposals; rather, we will review a challenge to an agency’s evaluation to determine whether the agency acted reasonably and in accord with the solicitation’s evaluation criteria and applicable procurement statutes and regulations. Id. A protester’s mere disagreement with the agency’s judgments does not render the evaluation

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<sup>7</sup> In responding to the agency report, approximately 40 days after filing its initial protest, AFSI, for the first time, asserted that its proposal, in fact, “gave expansive treatment to each of these [seven] types of services.” AFSI Comments on Agency Report, May 2, 2011, at 8. AFSI’s new protest assertion (expressly acknowledging the solicitation requirement its initial protest disputed) was filed substantially more than 10 days after AFSI knew the basis for its assertion. Accordingly, this portion of its protest is not timely filed and will not be considered. 4 C.F.R. § 21.2(a)(2) (2010); see University Research Co., LLC, B-294358.8 et al., Apr. 6, 2006, 2006 CPD ¶ 66 at 16.

unreasonable. SDS Int'l, Inc., B-291183.4, B-291183.5, Apr. 28, 2003, 2003 CPD ¶ 127 at 6.

As noted above, under the heading “Technical Acceptability,” the solicitation directed offerors to “[p]rovide a Procedures Manual or equivalent that includes all elements in the PWS.” RFP amend. 3, at 270-71. With regard to performance standards and metrics, the solicitation specifically stated:

The Procedures Manual or equivalent shall . . . demonstrate[] meaningful and measurable performance metrics that meet or exceed the *AHE* [American Healthcare Environmental] *Practice Guidance for Healthcare Environmental Cleaning* standards.

\* \* \* \* \*

The Contractor shall establish performance standards aligned with industry’s voluntary consensus standards (VCS) and in compliance with SAMMC-N Pam[phlet] 40-2, Infection Control Manual to meet the PWS requirements.

Id. at 215.

AFSI asserts that its proposal “is replete with performance standards and metrics.” AFSI Comments, May 2, 2011, at 11. However, in supporting this assertion, AFSI relies on provisions in its proposal that relate to its quality control procedures—that is, procedures AFSI will employ to preclude or correct deficiencies in its contract performance. In this regard, AFSI states, [deleted]. Id. at 14. Similarly, AFSI refers to provisions in its proposal that indicate AFSI will [deleted]. Id.; AR, Tab 15, AFSI Revised Technical Proposal, at 8. AFSI maintains that these proposal provisions met the requirement to submit performance standards and metrics.

AFSI’s reliance on its proposed quality control procedures as a basis for challenging the agency’s deficiency assessment misses the point. That is, while these procedures address AFSI’s actions to preclude or correct contract performance that has been or would be considered deficient, its proposal did not establish standards or metrics for determining the level of performance that will constitute deficient performance—which is precisely what the PWS provisions quoted above required.<sup>8</sup> Accordingly, AFSI’s various protest submissions provide no basis for challenging the agency’s determination that AFSI’s proposal failed to provide performance metrics and performance standards against which AFSI’s actual performance of the various PWS requirements could be meaningfully measured.

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<sup>8</sup> In responding to AFSI’s protest, the agency has provided an example of the AHE standards referenced in the solicitation. AR, Tab 1, Legal Memorandum, at 20-21.



We have further reviewed the agency record regarding all of the assessed deficiencies and significant weaknesses, and we find no basis to question any of the agency's assessments. As noted above, the solicitation expressly advised offerors that, to be evaluated as technically acceptable, a proposal must "contain[] no deficiencies or significant weaknesses," further warning that "any aspect of the proposal judged to be unacceptable may render the entire proposal unacceptable." RFP amend. 3, at 264-65, 80. Accordingly, based on the multiple deficiencies and significant weaknesses in AFSI's proposal, the agency reasonably concluded that the proposal was technically unacceptable. Further, in light of AFSI's failure to meaningfully address the multiple proposal flaws identified during discussions, the agency reasonably excluded AFSI from further consideration.<sup>9</sup> See, e.g., Bannum, Inc., B-291847, Mar. 17, 2003, 2003 CPD ¶ 74 at 2-3; Moreland Corp., B-291086, Oct. 8, 2002, 2002 CPD ¶ 197 at 3-4

### Meaningful Discussions

Next, AFSI asserts that the agency failed to conduct meaningful discussions with AFSI with regard to the solicitation requirements to provide performance standards and metrics. In this regard, AFSI asserts that, because its proposal allegedly "provide[d] comprehensive treatment of standards and metrics," the agency was required to provide more specific information during discussions regarding those requirements, and its failure to do so was misleading. AFSI Comments, May 2, 2011, at 23.

When discussions are conducted, they must be meaningful. Federal Acquisition Regulation § 15.306(d)(3). In order to satisfy its obligation to conduct meaningful discussions, an agency must lead offerors into the areas of their proposals that reflect deficiencies or significant weaknesses; that is, an agency must identify aspects of an offeror's proposal that, unless further addressed, would prevent the offeror from having a reasonable chance for award. Northrop Grumman Info. Tech., Inc., B-290080 et al., June 10, 2002, 2002 CPD ¶ 136 at 6.

Here, as discussed above, the record shows that the agency's discussions specifically reminded AFSI that its proposal would be evaluated to determine whether the required services "will be consistently performed in a standardized method with established performance standards and performance metrics." AR, Tab 11, Items for Discussion, at 5. Further, the agency told AFSI that its initial proposal "failed to include performance standards aligned with Association for Healthcare Environment (AHE) and in compliance with SAMMC-N Pam[phlet] 40-2, Infection Control Manual, to meet the PWS requirements." Id. at 6. Finally, the agency also specifically advised AFSI that its proposal "failed to include meaningful and measureable performance

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<sup>9</sup> To the extent AFSI maintains that the particular terms of this solicitation precluded exclusion of AFSI's proposal following discussions, the protest is without merit.

metrics that meet or exceed the AHE *Practice Guidance for Healthcare Environmental Cleaning* standards as required in PWS 1.7.2.1.”<sup>10</sup> Id.

On this record we find no reasonable basis for AFSI to assert that it was confused and/or reasonably believed that its submission of quality control procedures (dealing with AFSI’s efforts to preclude or correct deficient contract performance) was adequate to meet the solicitation’s requirements to submit performance standards and metrics to measure the acceptability of contract performance. AFSI’s assertion that it was reasonably misled by the agency’s discussions in this regard, or that the discussions were otherwise inadequate, is without merit.<sup>11</sup>

### Alleged Agency Bias

Finally, AFSI asserts that the agency was “biased” in conducting this procurement because the terms of the solicitation required that technical proposals be “sanitized.” That is, the solicitation provided that each offeror must submit three copies of its

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<sup>10</sup> AFSI complains that the agency’s written discussion questions contain what appears to be a typographical error regarding the referenced PWS section; that is, the AHE *Practice Guidance for Healthcare Environmental Cleaning* standards are referenced in PWS section 1.7.2.2, rather than section 1.7.2.1. However, in light of the substantive discussion the agency provided regarding this matter, we do not view this apparent error as a basis to sustain the protest. Specifically, the agency’s discussion questions unambiguously identified the AHE *Practice Guidance for Healthcare Environmental Cleaning* as the relevant authority for performance standards. In responding to AFSI’s protest, the agency has provided an example of the referenced AHE standards that reflects criteria for measuring task performance. AR, Tab 1, Legal Memorandum, at 20-21. AFSI has not argued that the agency’s example inaccurately represents the AHE standards, nor has it shown that the provisions in its proposal reflect such standards.

<sup>11</sup> AFSI’s protest also complained that the agency’s discussions were inadequate because the agency failed to address one of eight weaknesses which were not considered to constitute either deficiencies or significant weaknesses. In its comments following receipt of the agency report, AFSI did not further address this matter; accordingly, we consider this argument to have been abandoned. CM Mfg., Inc., B-293370, Mar. 2, 2004, 2004 CPD ¶ 69 at 3.

technical proposal in which the offeror had “exclude[ed] any information that would identify their company.”<sup>12</sup> RFP amend. 3, at 266.

During its debriefing, AFSI sought information regarding the basis for the solicitation’s “sanitization” requirements. The agency responded: “The practice of sanitizing proposals is an agency preference for the purpose of insuring anonymity of offerors in order to achieve an unbiased evaluation.” AR, Tab 20, Enclosure to Written Debriefing, at 2. AFSI’s protest asserts that the agency’s reference to an “unbiased evaluation” in its debriefing “revealed for the first time that bias infected this procurement.”<sup>13</sup> Protest at 6.

Our Bid Protest Regulations require that a protest must include a sufficiently detailed statement of the grounds supporting the protest allegations. 4 C.F.R. §§ 21.1(c)(4), 21.1(f), 21.5(f). That is, a protest must include sufficient factual bases to establish a reasonable potential that the protester’s allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. See U.S. Aerospace, Inc., B-403464, B-403464.2, Oct. 6, 2010, 2010 CPD ¶ 225 at 6-7; View One, Inc., B-400346, July 30, 2008, 2008 CPD ¶ 142 at 2-3. With regard to allegations of bias or bad faith on the part of contracting officials, our Office will not consider allegations based on mere inference, supposition, or unsupported speculation. See, e.g., Operational Support & Servs. B-299660.2, Sept. 24, 2007, 2007 CPD ¶ 182 at 3; Midwest Metals, B-299805, July 17, 2007, 2007 CPD ¶ 131 at 3 n.2.

Here, AFSI’s protest fails to meet this Office’s threshold requirements for consideration. Specifically, nothing in either AFSI’s protest or the agency’s procurement record provides any support for AFSI’s allegation of bias. To the contrary, it is clear that the agency’s procedures reflected reasonable efforts to

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<sup>12</sup> In place of company identifiers, offerors were further directed to place their Commercial and Government Entity (CAGE) codes on the “sanitized” copies of their technical proposals. RFP amend. 3, at 266.

<sup>13</sup> Prior to submitting its proposal, AFSI had requested information from the agency regarding this requirement, but it did not challenge the provisions before submitting its proposal. To the extent AFSI’s protest regarding the solicitation’s “sanitization” requirements assert that the provisions are improper, the protest is not timely filed. 4 C.F.R. § 21.2(a)(1).

ensure an objective evaluation and source selection process. AFSI's allegation of bias will not be further considered.<sup>14</sup>

The protest is denied.<sup>15</sup>

Lynn H. Gibson  
General Counsel

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<sup>14</sup> Similarly, AFSI filed a supplemental protest alleging that a former AFSI employee, who left AFSI's employment in November 2010 (a month prior to the December 2010 issuance of this solicitation) "has been collaborating with another offeror," and AFSI maintains that such collaboration "has tainted the procurement process." Supplemental Protest, Apr. 4, 2011, at 2. The contracting officer responded to this allegation by contacting the competing company and presenting AFSI's allegation. The competing company provided a statement for the record that "[the former AFSI employee] did not assist in the preparation of [the competing company's] proposal or contribute information for use in [the competing company's] proposal whatsoever." AR, Tab 23, Letter from Competing Company to Contracting Officer, Apr. 7, 2011, at 1. Since the former AFSI employee left AFSI's employment before this solicitation was issued, the competing company has expressly stated that the former AFSI employee was not involved in preparation of its proposal, and AFSI has not provided any meaningful support for its accusation, this allegation provides no basis to sustain the protest.

<sup>15</sup> In its various protest submissions, AFSI has raised arguments in addition to, or variations of, the arguments discussed above. We have considered all of AFSI's various allegations and find no basis to sustain its protest.