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Decision

Matter of: All Points Logistics, Inc.

File: B-418700.2

Date: January 11, 2021

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Michael P. Grogan, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency's evaluation of protester's corporate experience is denied where the evaluation was reasonable and consistent with the stated evaluation criteria.
 2. Protest that agency failed to raise concerns about protester's proposal after opening discussions is denied. The record reflects that the agency did not open discussions, but rather, merely asked clarifying questions during contractor oral presentations, which did not amount to discussions.
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DECISION

All Points Logistics, Inc. (APL), a service-disabled veteran-owned small business (SDVOSB) of Merritt Island, Florida, protests the issuance of a task order to Innovative Management Concepts (IMC), an SDVOSB of Dulles, Virginia, under task order request (TOR) No. 47QFCA20R0018, issued by the General Services Administration (GSA) for enterprise services integration and modernization. The protester contends that the agency's evaluation of proposals was unreasonable and that GSA erred when it failed to advise APL about flaws in its proposal.

We deny the protest.

BACKGROUND

The agency issued the solicitation on March 9, 2020, pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 16.5, to SDVOSB firms holding GSA Veterans Technology Services 2 (VETS 2) indefinite-delivery, indefinite-quantity (IDIQ) governmentwide acquisition contracts. Agency Report (AR), Tab 1, Contracting

Officer's Statement (COS) at 1-2. The solicitation contemplated the issuance of a cost-plus-award-fee task order, with a 1-year base period of performance and four 1-year option periods. AR, Tab 2, TOR at 33. The solicitation sought support for enterprise services integration and modernization (ESIM) planning; operation and maintenance of command, control, communications, and computers (C4); and information technology (IT) systems and services. *Id.* at 9. The services to be provided under the TOR include site surveys, engineering, design, procurement, logistics, implementation, operation and maintenance, knowledge management, cybersecurity, and training for new and existing C4 and IT systems. *Id.* at 10.

The solicitation advised that award would be made to the offeror whose proposal was most advantageous to the government, considering cost and other factors.¹ TOR at 94. In addition to cost, the TOR included the following evaluation factors, listed in descending order of importance: technical approach; management approach/key personnel/project staffing; and corporate experience.² *Id.* at 96. All evaluation factors other than cost, when combined, were significantly more important than cost. *Id.* The TOR also stated that the "Government will combine the results of the written and oral submissions, including the Q&A [question-and-answer] responses, to arrive at a rating for the technical evaluation factors as a whole." *Id.* Finally, the solicitation provided that the agency reserved the right to make award without discussions, and to ask clarifying questions during the Q&A portion of offerors' presentations. *Id.*

Under the technical approach factor, proposals would be evaluated based on "the clarity and completeness of the approach [and] the degree to which the proposal meets the requirements of the TOR [. . .] and includes innovative and efficient methodologies." *Id.*

¹ Offerors were required to submit their proposals in four parts. TOR at 80. First, each offeror was to submit a preliminary cost/price proposal, which was to include information such as current forward pricing rate agreements. *Id.* For parts two and three, an offeror was required to provide the remainder of its cost/price proposal and its technical proposal, respectively. *Id.* Finally, offerors were (if invited by the agency) to provide an audio technical proposal presentation covering the offeror's technical approach, and management approach/key personnel/project staffing. *Id.* Following the receipt of these materials, the agency would then conduct an oral question-and-answer (Q&A) session, to "allow the Government to ask questions, as deemed necessary, that will serve to clarify to the Government, for evaluation purposes, the offeror's methodologies and approaches as proposed." *Id.* at 90.

² The agency utilized an adjectival rating scheme to evaluate the non-price factors. AR, Tab 4, Tech, Evaluation Plan at 6-7. For the technical approach and management approach/key personnel/project staffing factors, the agency utilized four ratings: excellent; good; acceptable; and not acceptable. *Id.* For the corporate experience factor, the agency utilized an adjectival relevancy-rating scheme with the following combinations: very relevant; relevant; somewhat relevant; and not relevant. *Id.* at 13; TOR at 98.

at 96. Under the management approach/key personnel/project staffing factor, an offeror’s management approach would be evaluated to determine “the degree to which it reflects an effective, efficient, feasible, and practical level of understanding of the operating environment” to accomplish the task order. *Id.* at 97. For key personnel, the agency would “assess the currency and applicability of experience” for proposed key personnel. *Id.* And, for project staffing, a proposal would be evaluated to determine “the degree to which it complies with the requirements outlined in [the TOR,] including the estimated hours and labor mix for Key Personnel and the experience, skills, and qualifications of the personnel proposed.” *Id.* For the third evaluation factor, corporate experience, the solicitation advised that GSA would evaluate offered experience based on the degree of relevancy to the requirements in the TOR, with consideration of “similarity in size, scope, and complexity to the TOR requirements.” *Id.* at 98. The TOR advised that an offeror’s cost proposal would be evaluated for cost realism and price reasonableness.³ *Id.* at 95.

GSA received multiple proposals by the deadlines established in the TOR, to include submissions from APL and IMC. COS at 4. The following is a summary of the agency’s final ratings of the proposals of APL and IMC:

	APL	IMC
Technical Approach	Acceptable	Excellent
Management Approach/Key Personnel/Project Staffing	Excellent	Good
Corporate Experience	Relevant	Relevant
OVERALL TECHNICAL RATING	Good	Excellent
Price	\$166,661,466	\$168,090,993

AR, Tab 7, Source Selection Decision Document (SSDD) at 40.

Following an evaluation by the technical evaluation board (TEB), the source selection authority (SSA)--who was also the contracting officer for this procurement--reviewed and concurred with the technical evaluation results. Tab 7, SSDD at 5; *see also* AR, Tab 6, Tech. Evaluation Board Consensus Report (TEB Report). The SSA, in comparing the proposals of APL and IMC, noted that APL offered “an adequate proposal that met the requirements, but lacked details in knowledge management, training and cybersecurity to instill confidence that the offeror would be effective post-award.” AR, Tab 7, SSDD at 40. On the other hand, the SSA found that “IMC’s approach was clear, consistent, and comprehensive” and that the firm displayed a “clear and detailed understanding of the Government’s priorities, the internal mission-

³ The solicitation also required offerors to meet specific pass/fail criteria; the TOR stated that “[a] failure on any single Pass/Fail criteria will make the proposal ineligible for award, with no further evaluation of the Technical and Cost/Price proposal accomplished by the Government.” *Id.* at 86. Both APL and IMC satisfied these criteria.

objectives, and its understanding of the external challenges impacting the area of responsibility (AOR).” *Id.* at 40-41. The SSA concluded that “paying an additional one percent for an EXCELLENT proposal over a GOOD proposal is in the best interest of the Government due to complexity, AOR and mission/objectives of the ESIM requirements.” *Id.* at 41. The agency concluded that IMC’s proposal represented the best value to the government and made award to the firm on September 17. AR, Tab 14, Award Notification at 1. Following a written post-award debriefing, APL timely filed this protest on October 5.⁴

DISCUSSION

The protester marshals several arguments challenging the agency’s conduct of the procurement. First, APL argues that GSA’s evaluation of its proposal under the corporate experience factor strayed from the terms of the solicitation when the agency misapplied the TOR’s definition for size similarity. Protest at 17-20; Comments at 8-12; Supp. Comments at 3-8. Additionally, the protester challenges the reasonableness of the agency’s conduct of the oral Q&A session, suggesting that GSA failed to advise APL of weaknesses in its approach, which the protester argues, simply concerned a lack of clarity in the firm’s proposal. Protest at 14-17; Comments at 4-8; Supp. Comments at 8-10. APL also contends that the agency failed to conduct meaningful discussions when it allowed for material proposal revisions, but failed to advise the firm

⁴ The value of the protested task order exceeds \$10 million. Accordingly, this protest is within our jurisdiction to hear protests of task orders placed under civilian agency IDIQ contracts. 41 U.S.C. § 4106(f)(1)(B).

of the weaknesses in its proposal.⁵ Comments at 14-15; Supp. Comments at 12-16. For the reasons that follow, we find no basis on which to sustain the protest.⁶

Corporate Experience

The protester challenges the agency's assignment of a rating of "relevant" under the corporate experience factor. Protest at 19. In this regard, APL contends that the agency veered from the solicitation's evaluation criteria in its determination that only one of APL's references was similar in size. Comments at 9-12. More specifically, the protester argues that the agency failed to review APL's references for individual scope and complexity, but instead and contrary to the terms of the solicitation, based its relevancy determination on the individual size and total dollar value of those references. Supp. Comments at 4-6. The protester argues that had the agency conducted its evaluation consistent with the TOR's stated criteria, its references would have warranted a "very relevant" rating. *Id.*; Supp. Comments at 3-6.

⁵ APL's protest also alleged that the agency's evaluation of its proposal under the technical approach factor was flawed, challenging a number of assigned weaknesses. Protest at 11-14. GSA provided a detailed response addressing this challenge. Memorandum of Law (MOL) at 6-23. APL's comments on the agency report provide no substantive response in connection with its challenge. See Comments at 8 (protester's response to GSA's argument is, "APL re-affirms that the segments of its proposal that were highlighted in its October 5, 2020 protest firmly established the reasonableness of its claim that the Agency assigned the suspect weaknesses in an unreasonable manner.").

In our view, the protester has abandoned this allegation. When an agency provides a detailed response to a protester's allegations and the protester fails to rebut or otherwise substantively address the agency's arguments in its comments, the protester provides us with no basis to conclude that the agency's position with respect to the issue in question is unreasonable or improper, and we therefore find this protest ground abandoned and do not consider it further. See 4 C.F.R. § 21.3(i)(3); *KSJ & Assocs., Inc.*, B-409728, July 28, 2014, 2014 CPD ¶ 222 at 5. In any event, following our review of the record, we find nothing objectionable about the agency's evaluation of APL's technical approach.

⁶ APL raises other collateral allegations, and although our decision does not specifically address every argument presented, we have considered each and find that none provides a basis upon which to sustain the protest. For example, the protester contends that GSA's evaluation of APL's and IMC's costs was flawed because the offerors employed different cost escalation rates. Comments at 13-14; Supp. Comments at 10-12. However, where APL fails to argue or otherwise demonstrate that the escalation rates offered by IMC were unreasonable, and where the underlying record shows that the agency's price and cost evaluation was consistent with the terms of the solicitation, we find no basis to sustain the protest allegation.

The evaluation of an offeror's proposal is a matter largely within the agency's discretion. *Technatomy Corp.*, B-411583, Sept. 4, 2015, 2015 CPD ¶ 282 at 4. Where a protester challenges an agency's evaluation of corporate experience, our Office will not reevaluate proposals, but rather, we review the underlying evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations. See *Inquiries, Inc.*, B-418486, *et.al*, May 27, 2020, 2020 CPD ¶ 182 at 8.

Here, the solicitation's proposal instructions required offerors to provide three corporate experience references that were "collectively similar in size, scope, and complexity to the requirements identified" in the performance work statement. TOR at 88. The solicitation defined "collectively similar in scope and complexity" as "projects, when taken as a whole, are similar to the requirements identified in the TOR[]." *Id.* The TOR further explained that projects "collectively similar in size" was defined as "the sum of the average annual ceiling value of each proposed Corporate Experience project is similar to the average annual ceiling value of each year of this requirement." *Id.* at 89. Following the submission of proposals, GSA would evaluate the degree of relevancy of a given reference to the requirements in the TOR, with respect to similarity in size, scope, and complexity to the TOR requirements. *Id.* at 98. To achieve a rating of "very relevant," an offeror's references must be "collectively similar in size, scope, and complexity to the solicitation requirements" and "at least two of the individual efforts are highly similar in scope and complexity to the solicitation requirements." *Id.* A rating of "relevant" required the same collective findings, except that only one individual reference was required to be "highly similar in scope and complexity to the [TOR's] requirements." *Id.*

Based on our review, the record demonstrates that the agency's evaluation was consistent with the terms stated in the solicitation. The TEB conducted its evaluation of relevancy for an offeror's corporate experience in a two-step manner. See Declaration from TEB Co-Chair, Nov. 30, 2020, at 1-2. First, the TEB "determined if each of an offeror's individual corporate experience references are similar only in scope and complexity" to the TOR's requirements, corresponding to the second prong of the adjectival rating of very relevant/relevant (whether individual contracts were "highly similar in scope and complexity"). *Id.* at 1. Then, in the second step of the evaluation, the TEB determined whether an offeror's "references are collectively similar in size, scope, and complexity" to the TOR's requirements; this corresponded to the first prong of the adjectival rating (whether "efforts are collectively similar in size, scope, and complexity"). *Id.* Contrary to the protester's assertions, the TEB co-chair makes clear that the size of an individual reference was not evaluated for similarity to the TOR, but instead, was only used for a collective determination concerning size similarity.⁷ *Id.*; see also Memorandum of Law (MOL) at 3-4.

⁷ APL's argument that the agency inappropriately considered the individual size of a contract reference, when it evaluated the firm's work supporting the Orion Multi-Purpose Crew Vehicle, is not supported by the record. See Supp. Comments at 3-5. Based on

In addition to finding the agency's evaluation methodology consistent with the stated criteria, we also find unobjectionable the agency's evaluation conclusions. The TEB found that only one of APL's references, its work at the Marshall Space Flight Center, was highly similar in scope and complexity to the TOR's requirements. AR, Tab 6, TEB Report at 53-54. For APL's second reference, for work supporting the Orion Multi-Purpose Crew Vehicle, the TEB found that the work performed was merely "somewhat similar" in scope; the firm's third contract reference, concerning work performed for the Defense Information Systems Agency, was assessed as only "similar" in scope. *Id.* at 54-55. While the TEB concluded that APL's corporate experience references, when combined, were "collectively similar in size, scope, and complexity to the solicitation requirements[,] because only one individual reference was "highly similar in scope and complexity to the [TOR's] requirements," the agency assigned a rating of "relevant," rather than "very relevant." *Id.* at 53.

APL contends that, in its view, the dollar amounts and number of personnel supporting its three offered contracts should have been sufficient to establish that they were all "highly similar in scope and complexity" to this TOR. However, the record reflects that the agency thoughtfully considered APL's references for relevancy, both individually and collectively, to arrive at its evaluation conclusion. See AR, Tab 6, TEB Report at 53-55. The protester's disagreement with the agency's evaluation, without more, is insufficient to establish that the agency acted unreasonably. *STG, Inc., B-405101.3 et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7. This protest ground is denied.

Clarifications during the Q&A Session

The protester also argues that GSA failed to raise concerns about APL's technical approach during the oral Q&A session. Protest at 14-17; Comments at 4-8; Supp. Comments at 8-10. In this regard, the protester contends that the agency was, under the terms of the solicitation, required to raise its concerns about a lack of detail in APL's technical approach during the Q&A. The protester goes on to argue that had GSA properly raised these issues, the four weaknesses the agency assigned to APL's technical approach would have been eliminated through APL's further explanation of its approach. Comments at 4. APL posits that "[w]hether the current Q&A exchanges are viewed as discussions or clarifications, [...], the Agency should have sought clarification" concerning the weaknesses assigned. *Id.* at 7.

a lack of clarity in APL's proposal about the Orion contract, the TEB stated that it "struggled to make a relevant size comparison given the information provided." AR, Tab 6, TEB Report at 55. The agency's consideration of the individual size of this contract was proper because its ability to make a collective size similarity assessment was necessarily dependent on its ability to assess the size of each contract reference. See TOR at 98. Accordingly, we find the agency's consideration of size unobjectionable, in this regard.

In response, GSA argues that APL's argument rests on a flawed understanding of the solicitation. The agency notes the TOR provided that the Q&A session would be used to ask questions to clarify an offeror's methods and proposed approach, and that proposal revisions were "not expected and will not be allowed." TOR at 91. The agency further argues that, consistent with the solicitation, it was under no obligation to seek clarifications from an offeror. MOL at 29.

This task order procurement was conducted as a competition among SDVOSB VETS 2 contract holders and, as such, was subject to the provisions of FAR subpart 16.5, which does not establish specific requirements for conducting clarifications or discussions. *Technatomy Corp.*, B-411583, Sept. 4, 2015, 2015 CPD ¶ 282 at 7. Where, as here, however, an agency conducts a task order competition as a negotiated procurement, our analysis regarding fairness, will, in large part, reflect the standards applicable to negotiated procurements. See, e.g., *TDS, Inc.*, B-292674, Nov. 12, 2003, 2003 CPD ¶ 204 at 6 n.3; *Uniband, Inc.*, B-289305, Feb. 8, 2002, 2002 CPD ¶ 51 at 3-4.

In a negotiated procurement conducted pursuant to FAR part 15, clarifications are "limited exchanges" between the government and vendors that may occur when award without discussions is contemplated. FAR 15.306(a)(1). As a general matter, agencies may, but are not required to, engage in clarifications that give offerors an opportunity to clarify certain aspects of proposals or to resolve minor clerical errors. See e.g., *Valkyrie Enterprises, LLC*, B-414516, June 30, 2017, 2017 CPD ¶ 212 at 5. Agencies have broad discretion as to whether to seek clarifications from offerors, and offerors have no automatic right to clarifications regarding proposals. *Id.* at 7. This is especially true where, as here, the solicitation permits, but does not require, the agency to seek clarifications. See TOR at 94 (providing that the agency "reserves the right" to ask clarification questions).

As an initial matter, we reject the protester's contention that the agency held discussions. Comments at 5 (arguing that GSA engaged in discussions based on "the information supplied by APL in response to the Agency's [clarification] questions [which] added to its proposal's standing and allowed the protestor to expand on its solution."). Where, like here, there is a dispute regarding whether exchanges between an agency and an offeror constituted discussions, we look at whether an offeror has been afforded an opportunity to revise or modify its proposal in some material respect. *Booz Allen Hamilton, Inc.*, B-405993, B-405993.2, Jan. 19, 2012, 2012 CPD ¶ 30 at 12. Communications that do not permit an offeror to revise or modify its proposal, but rather permit the offeror to explain or clarify what the offeror has already proposed to do, are clarifications and not discussions. *Allied Tech. Grp., Inc.*, B-402135, B-402135.2, Jan. 21, 2010, 2010 CPD ¶ 152 at 6; *SRS Techs.*, B-291618.2, B-291618.3, Feb. 24, 2003, 2003 CPD ¶ 70 at 3 n.4.

The record demonstrates that the agency asked 15 questions during the oral Q&A session with APL. Comments, exh. A. These questions sought amplification on certain aspects of APL's proposal and approach, such as clarification on certain graphics within APL's slides and potential discrepancies within the same. *Id.* However, the responses

to these questions merely allowed APL an opportunity to clarify the firm's approach, and did not allow any material modifications. In the absence of any specific argument as to how its responses to the agency's clarification questions permitted APL to materially revise or modify its proposals in response, we cannot conclude that the agency conducted discussions through its clarification questions.⁸

Additionally, we find nothing unreasonable in the agency's conduct in seeking limited clarifications from the protester. In essence, the protester argues that the agency was unreasonable for failing to mention identified weaknesses with APL's approach during the Q&A session since the weaknesses were all based on a lack of clarity with its written proposal. Comments at 4-5; Supp. Comments at 8-9. This argument fails for several reasons.

First, while the underlying evaluation record shows the agency did find four independent weaknesses in APL's approach, the record demonstrates that those weaknesses were not merely tied to a lack of detail, but instead, concerned problems with the firm's technical solution. See AR, Tab 6, TEB Report at 47-48 (finding that APL's approach regarding cybersecurity protections were "an afterthought"; that its approach to knowledge management and training "neither met the requirement of the TOR nor identified any added efficiencies"; and that the firm's solution for operations and maintenance support was "generic in nature and did not provide any clear details as to how this Task would be executed post-award to maintain minimum levels of acceptable service.").

⁸ Similarly, we find no merit in the protester's argument that GSA opened discussions by requiring responses to amendment 0007 to the TOR. Comments at 14-15; Supp. Comments at 12-16. As explained by the contracting officer, this amendment (following the receipt of proposals) asked offerors to provide a response to an updated version of FAR provision 52.204-24--concerning the use of certain covered telecommunications equipment or services--and to validate proposal validity for an additional 60 days. Supp. COS at 2.

Here, however, the mere fact that GSA issued a solicitation amendment and obtained revised proposals on these two narrow bases does not, alone, illustrate that GSA opened discussions. See *Strategic Resources, Inc.*, B-419151, Dec. 11, 2020, 2020 CPD ¶ 399 at 6 (revised proposals submitted by offerors in response to a solicitation amendment did not constitute discussions when such information was not tailored to correct any particular proposal's deficiencies or significant weaknesses, and the communication did not involve any bargaining); *Equa Sols., Inc.*, B-409848.2, B-409848.3, Nov. 20, 2014, 2014 CPD ¶ 354 at 7 (agency did not conduct discussions by allowing all offerors to submit revised proposals in response to a solicitation amendment because the exchange was not accompanied by any of the ordinary indicia of discussions). Because the record does not support the protester's view that the agency conducted discussions, this protest ground is denied.

Second, even if the bases for the agency's concerns stemmed from a lack of clarity with its proposal, at the time of the Q&A, the agency had yet to evaluate APL's full technical approach. Thus, GSA was not in a position to seek clarification from APL concerning those yet-to-be-established weaknesses. See COS at 5 (stating that at the time of the Q&A, "no ratings, to include weaknesses, [had] been assigned or determined by the [TEB]."). Third, and as noted above, an agency is permitted, but not required, to obtain clarifications from offerors. *Valkyrie Enterprises, LLC, supra* at 7. Rather, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation requirements; an offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal. *STG, Inc.*, B-411415, B-411415.2, July 22, 2015, 2015 CPD ¶ 240 at 5-6; *International Med., Corps*, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 8. Because the agency was under no affirmative obligation to seek clarifications from

APL regarding its technical approach, and for the reasons set forth above, we find no basis to sustain this protest.

The protest is denied.

Thomas H. Armstrong
General Counsel