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Washington, DC 20548**

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## Decision

**Matter of:** New Tech Solutions, Inc.

**File:** B-405989.2

**Date:** January 23, 2012

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Joanne T. Rupprecht, Esq., and Theodore P. Watson, Esq., Watson & Associates, LLC, for the protester.

Lars E. Anderson, Esq., Brendan M. Lill, Esq., and James Y. Boland, Esq., Venable LLP, for Wildflower International, Ltd.; and Kenneth D. Brody, Esq., and Thomas K. David, Esq., David, Brody, & Dondershine, LLP, for NCS Technologies, Inc., the intervenors.

Christian F. P. Jordan, Esq., Kimberly M. Shackelford, Esq., and Angela M. Varner, Esq., Department of Homeland Security, for the agency.

Peter D. Verchinski, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Protest challenging agency's evaluation of proposals and selection decision is denied where the record shows that the agency's evaluation and selection of awardees was reasonable and consistent with the terms of the solicitation.

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### **DECISION**

New Tech Solutions, Inc., of Fremont, California, protests the award of contracts to NCS Technologies Incorporated, of Gainesville, Virginia, and Wildflower International, Ltd., of Santa Fe, New Mexico, under request for proposals (RFP) No. HSTS03-11-R-CIO314, issued by the Department of Homeland Security, Transportation Security Administration (TSA), for computer hardware.

We deny the protest.

### **BACKGROUND**

The RFP, issued as a combined synopsis/solicitation in accordance with commercial item acquisition procedures of Federal Acquisition Regulation subpart 12.6, provided for the award of fixed-price indefinite-delivery/indefinite-quantity (ID/IQ) contracts for various types of computer equipment. The RFP sought prices for six different

categories of equipment: desktops, laptops, ruggedized laptops, tablets, accessories, and peripherals. Agency Report (AR), RFP, at 1-2.<sup>1</sup>

The RFP included minimum specifications for some of the solicited hardware. For example, the RFP identified minimum requirements for the ruggedized laptop with respect to, among other things, battery life, display size, hard drive capacity, and military standard (MIL-STD) 810F.<sup>2</sup> RFP at 3.

Offerors were informed that award(s) would be made on a best value basis considering price and the following four technical evaluation factors (listed in descending order of importance): equipment specifications, warranty support, production, and past performance. The RFP stated that the technical evaluation factors, combined, were more important than price. *Id.* at 9. The RFP also provided that if TSA determined that making more than one award offered the best value to the agency, the agency would make multiple awards by product category. *Id.* at 8.

The agency received fourteen proposals, including New Tech's, NCS's, and Wildflower's. After establishing a competitive range, conducting discussions, and evaluating final proposals, the source selection authority (SSA) determined that the best value to the agency was to split the award: the laptops and peripherals were awarded to Wildflower, and the desktops, ruggedized laptops, tablets, and accessories were awarded to NCS.

Following a debriefing, New Tech filed this protest.

## DISCUSSION

New Tech raises numerous challenges to the agency's conduct of the procurement.<sup>3</sup> We have considered all of New Tech's arguments and, while we do not discuss each

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<sup>1</sup> Page numbers refer to the BATES numbers in the report.

<sup>2</sup> MIL-STD 810F is entitled "Department of Defense Test Method Standard for Environmental Engineering Considerations and Laboratory Tests."

<sup>3</sup> New Tech's final submission identifies over 100 "issues of material fact." Protester's Comments on Agency's Supplemental Report, Dec. 14, 2011, at 4-15. The protester does not, however, present evidence or argument showing that the agency's actions violated law or regulation; rather, the protester merely states that these issues require GAO's determination. *Id.* at 9. To the extent the protester is asserting that our Office should independently examine these issues to determine whether the agency's actions were improper, our Office does not conduct investigations as part of our bid protest function. Charleston Marine Containers, Inc., B-283393, Nov. 8, 1999, 99-2 CPD ¶ 84 at 4.

of them here, we find that none provides a basis to object to TSA's source selection decisions.

For example, New Tech argues that award of the ruggedized laptop to NCS was unreasonable because NCS offered a "semi-ruggedized" laptop, and not a "ruggedized" laptop as required by the solicitation. In this regard, New Tech contends that the solicitation did not include a product category for "semi-ruggedized" laptops.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Abt Assocs. Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4.

Here, the RFP did not specifically define the term ruggedized. Rather, the RFP identified certain minimum specifications that the proposed laptop must satisfy.<sup>4</sup> New Tech does not identify any specification that NCS did not offer to satisfy. We therefore find no basis to question the agency's judgment that NCS's proposed laptop satisfied all the solicitation requirements.<sup>5</sup>

New Tech also argues that the award of peripheral products to Wildflower was unreasonable because Wildflower's proposed monitors were not Trade Agreement Act (TAA) compliant, as required by the solicitation. The record shows, however, that TSA reasonably determined that Wildflower had offered to provide TAA-compliant monitors. Throughout the procurement Wildflower proposed a Dell monitor, which was TAA-compliant. In its final proposal revision, Wildflower in one place in its proposal indicated that it would provide a Viewsonic monitor that was not TAA-compliant. Elsewhere in its final proposal revision Wildflower indicated that it

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<sup>4</sup> In this regard, in response to a question about whether TSA would accept a "semi-ruggedized" laptop, the agency stated that proposed products must meet the requirements listed in the RFP. See RFP amend. 3, Questions/Answers, at 47.

<sup>5</sup> The protester also complains that the agency did not provide the firm with meaningful discussions. In this regard, New Tech was informed during discussions that the price for its ruggedized laptops was deemed to be unreasonably high. AR, TSA Letter to New Tech, May 6, 2011, at 347. New Tech maintains that the agency should have informed the firm that its price was high because its laptop was being compared to "a completely different configuration . . . of equipment i.e. a 'Semi-Ruggedized' configuration." Protester's Comments at 11. We find no merit to this argument. The essence of New Tech's contention is that the firm should have been informed during discussions that the agency had relaxed its ruggedized laptop requirements. However, as explained above, there is no merit to the protester's belief that the agency relaxed its requirements.

would provide the TAA-compliant, Dell monitor. The agency concluded that the one reference to the Viewsonic monitor was an error, and the contract awarded to Wildflower was for the TAA-compliant Dell monitors.

The protester also raises numerous challenges to the reasonableness of the agency's cost/technical tradeoff decisions. We find that the protester's unsupported complaints provide no basis to sustain its protest.

Where, as here, a solicitation provides for a cost/technical tradeoff basis for selection decisions, source selection officials are permitted to make tradeoffs between the relative merits of proposals and price. The extent of such tradeoffs is governed only by the test of rationality and consistency with the solicitation criteria. See Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 9. Here, the record shows that TSA conducted a comprehensive cost/technical tradeoff analysis under each of the product categories, considering the technical merit and price of the respective offers. See AR, Tab 27, Award Recommendation. For example, with respect to the selection of NCS's proposal for award of the tablet computers, the agency recognized the protester's low price but concluded that NCS's higher rating under the equipment specifications factor (the most important factor), outweighed New Tech's lower price. See id. at 1004. Although New Tech generally complains about the agency's source selection decision, the protester does not meaningfully discuss how the agency's tradeoff judgments are irrational or inconsistent with the evaluation criteria.

The protester also contends that the agency was biased in favor of Wildflower, citing to cover letters and proposal revisions, in which Wildflower used personal salutations (such as agency officials' first names) and closings (such as "Warmest Regards"). Protester's Comments at 14. New Tech argues that this is evidence of communications that are "a direct result of the Government's coaching and additional allowances and accommodations, and which predictably won [Wildflower the] award." Id. We do not agree that this "evidence" establishes any bias or bad faith. Rather, we find that New Tech's arguments of bias are grounded upon inference and supposition, which do not provide a basis for finding that an agency acted in bad faith or as a result of bias. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7-8.

The protest is denied.

Lynn H. Gibson  
General Counsel