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## Decision

**Matter of:** Dependable Lawn Care, Inc.

**File:** B-411852

**Date:** October 22, 2015

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Lawrence Sklute, Esq., and Ethan Brown, Esq., Sklute & Associates, for the protester.

Barbara A. Duncombe, Esq., Suzanne Sumner, Esq., and Casie E. Hollis, Esq., Taft Stettinius & Hollister, LLP, for Maintenance Engineers, Inc., the intervenor.

Maj. David S. Gilkes, Esq., Department of the Air Force, for the agency.

Robert T. Wu, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest that the agency improperly found the awardee's proposal to be technically unacceptable is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

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### DECISION

Dependable Lawn Care, Inc., of Blue Island, Illinois, protests the award of a contract to Maintenance Engineers, Inc. (MEI), of Scottsdale, Arizona, by the Department of the Air Force under request for quotations (RFQ) No. FA4419-15-T-0101 for lawn maintenance services. Dependable argues that MEI's proposal should have been found to be technically unacceptable and that the agency improperly treated the firms' proposals disparately during the evaluation.

We deny the protest.

### BACKGROUND

The RFQ, issued on March 31, 2015, sought quotations for lawn maintenance services at Altus Air Force Base (AFB), Oklahoma. The RFQ contemplated award of an indefinite-delivery, indefinite-quantity contract, with fixed-price contract line item numbers (CLINs), to be performed over one base year and four option years. RFQ at 4-148. Quotations were to be evaluated on a best-value basis considering price, technical acceptability, and past performance acceptability. *Id.* at 168. Award

was to be made to the vendor submitting the lowest-priced, technically acceptable quotation. Id.

As relevant here, technical acceptability was to assess whether a vendor's proposal would satisfy the government's minimum requirements. Quotations were to be determined to be technically acceptable if they included all of the herbicides and hazardous material required to meet the performance requirements of the contract. Id. at 169.

Ten quotations were received by the agency, including those from Dependable and MEI. Agency Report (AR), exh. 8, Price Competition Memorandum (PCM), at 1. Of the 10 quotations received, two were found to be unacceptable. Id. at 5, 8-9. Of the remaining acceptable quotes, MEI submitted the lowest total evaluated price of \$2,357,763.00, and Dependable the second-lowest total evaluated price of \$2,779,113.61. Id. at 11-12. MEI was found to be the lowest-priced, technically acceptable vendor and on this basis the contracting officer decided to award the contract to MEI. Id. at 12.

## DISCUSSION

Dependable first argues that MEI's quotation should have been found technically unacceptable because the firm's technical proposal used the words "tentative" and "for example" in its integrated pest management (IPM) plan for Altus AFB. Protester's Comments at 2-6. In this regard, the protester argues that the technical acceptability factor "required a list of all of the actual herbicides and hazardous material that would be used to meet the contract performance requirements, not a tentative or illustrative list of some of them." Id. at 3.

In reviewing a protest challenging an agency's evaluation, our Office will neither reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. Analytical Innovative Solutions, LLC, B-408727, Nov. 6, 2013, 2013 CPD ¶ 263 at 3. Rather, we will review the record only to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Id.

The record shows that the agency determined that MEI's technical proposal included all of the herbicides and hazardous material required to meet the performance requirements of the RFQ. AR, exh. 8, PCM, at 4. We have no basis to object to the agency's determination.

As stated above, the RFQ states that quotations will be technically acceptable if they include all of the herbicides and hazardous material required to meet the performance requirements of the contract. RFQ at 169. MEI's technical proposal shows that it included a "tentative" Integrated Pest Management (IPM) plan for Altus

AFB. AR, exh. 5, MEI Technical Proposal at 7. MEI's technical proposal goes on to state its understanding that Department of Defense policy requires that the use of most of the pesticides on its list must be pre-approved by the base professional pest management consultant prior to use. Id. Thus, the "tentative" language to which the protester objects appears linked to the requirement that the pesticides listed by MEI must be approved prior to use.

MEI's technical proposal also provides an "example list" of hazardous materials other than herbicides that would be needed to perform the contract. Id. at 8. Again, MEI's technical proposal recognizes that the list "would be pending per the government's approval." Id. Dependable objects to the use of the word "example" by MEI in its technical proposal, arguing that such use indicates that the hazardous materials proposed by MEI "may or may not be the actual items that MEI would use to meet the contract performance requirements." Id. We do not read MEI's proposal this way.

While the use of the term "example list" connotes that the list may not be all inclusive with respect to hazardous materials MEI intends to use, our reading of the solicitation's terms leads us to conclude that so long as the list includes all of the hazardous materials required to meet the performance requirements of the contract, the evaluation criteria is satisfied. In this regard, the protester makes no argument with respect to whether the list provided by MEI does or does not satisfy this requirement, and as such we are provided no basis to question the agency's determination that MEI's proposal was technically acceptable in this respect.

Dependable also argues that the agency evaluated quotations in a disparate manner, favoring MEI's over its own. In this regard, the protester argues that the evaluators unreasonably failed to recognize that most of Dependable's herbicides had already been approved under its prior contract with Altus AFB. Dependable also argues that the agency improperly evaluated the firm's use of urea fertilizer despite the fact that it is not a herbicide or hazardous material, and failed to similarly evaluate the fertilizer used by MEI. According to the protester, because the agency considered Dependable's use of fertilizer, it should have also considered MEI's use of fertilizer (even though the protester acknowledges that this was not a solicitation requirement) and that failure to do so renders MEI's quotation technically unacceptable. Protester's Comments at 9-11.

It is a fundamental principle of federal procurement law that a contracting agency must treat all offerors equally and evaluate their proposals evenhandedly against the solicitation's requirements and evaluation criteria. Rockwell Elec. Commerce Corp., B-286201 et al., Dec. 14, 2000, 2001 CPD ¶ 65 at 5. Our review of the record does not provide any basis to conclude that the agency treated quotations disparately in the evaluation of proposals.

With respect to Dependable's allegation that the agency should have recognized that more of its herbicides have been approved for use than the herbicides identified by MEI, the agency evaluated quotations under the technical acceptability factor as either acceptable or unacceptable. Thus, there was no basis under this RFQ for Dependable to receive more favorable treatment for having more herbicides previously approved than MEI. In short, Dependable has not shown that MEI's quotation should have been found to be technically unacceptable for having fewer previously-approved herbicides identified in its quotation.

As to Dependable's second argument, that the agency should have evaluated MEI's use of fertilizers despite acknowledging that such an evaluation was not required, we conclude that the agency's evaluation was reasonable. To the extent that the agency should not have evaluated the protester's fertilizer use, such an error in the evaluation did not prejudice Dependable as the firm's quotation was found to be technically acceptable. AR, exh. 8, PCM at 12; see Bannum, Inc., B-408838, Dec. 11, 2013, 2013 CPD ¶ 288 at 4 (prejudice is an element of every viable protest).

The protest is denied.<sup>1</sup>

Susan A. Poling  
General Counsel

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<sup>1</sup> Dependable also argues that the agency's evaluation diverged from the stated evaluation criteria under the technical acceptability factor based on statements made by agency personnel in response to the protest. Protester's Comments at 11-12. We have considered the protester's allegations in this regard and find them to be without merit.