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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** Bashen Corporation

**File:** B-412032.2

**Date:** December 3, 2015

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Janet E. Bashen, Bashen Corporation, for the protester.

Leah Smiley, Institute for Diversity Certification, for the intervenor.

Capt. Christopher M. Kovach and Lt. Col. Damund E. Williams, 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

1. Protest that the agency unreasonably evaluated the protester's proposal as technically unacceptable is denied where the record shows that the evaluation was reasonable and consistent with the solicitation's evaluation criteria.
  2. Protest that the agency improperly awarded a contract to an ineligible vendor is denied where the record shows that the agency reasonably determined that the awardee was responsible and eligible for award.
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### DECISION

Bashen Corporation, of Houston, Texas, protests the award of a contract to the Society for Diversity, Inc. d/b/a Institute for Diversity Certification (IDC), of Plainfield, Indiana, by the Department of the Air Force under request for quotations (RFQ) No. FA7014-15-T-1007 for training services. Bashen argues that the agency unreasonably evaluated the firm's proposal and improperly awarded the contract to a firm that was ineligible for award.

We deny the protest.

### BACKGROUND

The RFQ, issued on May 27, 2015, sought quotations from vendors to provide a two-week diversity and inclusion management training to 25 agency personnel. RFQ at 3. Award was to be made on a lowest-priced, technically acceptable basis,

with technical capability as the only non-price factor. Id. at 7. Under the technical capability factor, the agency was to evaluate whether an offeror demonstrated the following:

[H]ow they plan to complete and deliver the pre-existing, ready-to-go complete training, addressing the requirements in the [Performance Work Statement (PWS)], with requisite instructors delivering material using interactive methods and demonstrating how they will meet 100% of the competencies and objectives outlined in the PWS.

Id. The PWS included various requirements and deliverables the awardee was required to meet. Id. at 29-35.

The Air Force received eight proposals in response to the solicitation. After an initial evaluation, the agency established a competitive range consisting of the quotations of Bashen and IDC. Agency Report (AR), exh. 21, Source Selection Decision (SSD), at 1. The agency sent Bashen an evaluation notice identifying six deficiencies in the firm's proposal. AR, exh. 14, Evaluation Notice (EN), at 1. Bashen responded to the deficiencies identified by the agency. AR, exh. 15, EN Response, at 1-5. However, in the final evaluation of Bashen's technical quotation, the agency found that three deficiencies had not been resolved. AR, exh. 17, Bashen Final Technical Evaluation, at 3-4; Contracting Officer's Supp. Statement at 7-9. Bashen's technical quotation was found to be technically unacceptable and award was made to IDC in the amount of \$137,375. AR, exh. 21, SSD, at 1.

After the award decision, Bashen contacted the contracting officer alleging that IDC had made certain false statements, was an administratively dissolved company under relevant state law, and had filed for bankruptcy. AR, exh. 26, Memorandum for Record, at 1. The contracting officer indicated that prior to award he had reviewed the System for Award Management (SAM) website to ensure that IDC was eligible for award. Subsequent to Bashen's complaint, the contracting officer indicated that he continued to find IDC to be responsible and eligible for award. Id. This protest followed.<sup>1</sup>

## DISCUSSION

Bashen first challenges the agency's determination that its proposal was technically unacceptable, disputing each deficiency assigned to its proposal. Our review of the record provides us no basis to question the agency's decision.

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<sup>1</sup> The agency report indicates that IDC began performing the subject contract on September 28, and was to have completed performance by October 9. Contracting Officer's Statement at 7.

In this regard, the evaluation of technical proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method for accommodating them. SRA Int'l, Inc., B-408624, B-408624.2, Nov. 25, 2013, 2013 CPD ¶ 275 at 4. In reviewing an agency's evaluation, we will not reevaluate technical proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. Id.

The record shows that the agency advised Bashen of six deficiencies in its proposal during discussions. AR, exh. 14, EN, at 1. While Bashen responded to each deficiency, the agency found that three of the six deficiencies were not resolved. AR, exh. 15, Bashen EN Response; exh. 17, Bashen Final Technical Evaluation, at 3-4. Our review of the record confirms the reasonableness of the agency's evaluation, including its determination that Bashen's quotation remained technically unacceptable after discussions due to the assigned deficiencies. We discuss two below by way of example.

The agency assigned a deficiency to Bashen's proposal for failing to meet the requirements of PWS ¶ 1.3.5 and asked the firm to address, among other things, relevant best practices for applying strategic change management within the public and private sector. AR, exh. 14, EN, at 1. Bashen responded to this discussion item by pointing the evaluators to the "Diversity Business Case" module of the firm's quotation. AR, exh. 15, Bashen EN Response, at 4. The evaluators, however, found that Bashen's response, "does not address public and private sector" nor does it address "assessing individual or organizational engagement." AR, exh. 17, Bashen Final Technical Evaluation, at 4.

Bashen responds in its comments by pointing to two sections of its quotation, which the firm asserts addresses this deficiency. Comments at 10. Bashen further states that it addressed this deficiency throughout the technical portion of its quotation, including one module that discusses the "powerful network of the C-Suite, which is a private sector model." Supp. Comments at 5. Our review of these portions of the quotation provides us no basis to question the agency's evaluation in this regard.

Offerors are responsible for submitting a well-written proposal with adequately-detailed information that allows for a meaningful review by the procuring agency. Hallmark Capital Group, LLC, B-408661.3 et al., Mar. 31, 2014, 2014 CPD ¶ 115 at 9. Bashen's quotation, including the portions cited by the firm in support of its argument, does not discuss the public and private sectors, which is the basis of the deficiency assigned by the agency. To the extent that the quotation's reference to a "C-Suite network" discusses a private sector model, the meaning of such a reference is not apparent on its face. As the burden of submitting a well-written quotation is on Bashen, we have no basis to question the agency's evaluation.

A second deficiency assigned to Bashen's proposal was under PWS ¶ 1.3.7, which required the vendor to "provide examples and techniques which may allow the Air Force to align with current [diversity and inclusion] recruiting and retention best practices while still meeting its mission goals." RFQ at 31. Bashen responded to this deficiency by highlighting its training module on Building a Diverse Workforce and including a bullet point list of the scope of the module. AR, exh. 15, Bashen EN Response, at 5. The evaluators considered the firm's response and assigned a deficiency for the lack of detail in Bashen's proposal with respect to the topic of recruitment and retention. AR, exh. 17, Bashen Final Technical Evaluation, at 7.

While Bashen disputes the continued assignment of a deficiency in light of its discussion response, a protester's disagreement with the agency's judgment, without more, is not sufficient to establish that the agency acted unreasonably. See United Def. LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 10-11. The relevant portion of Bashen's proposal only mentions recruitment and retention, and does not discuss these topics with any level of detail. Our review of the record provides us no basis to question the agency's judgment. Finally, as we conclude that at least two of the deficiencies assigned to Bashen's quotation were reasonable, we also find reasonable the agency's determination that the firm's proposal was technically unacceptable.<sup>2</sup>

Having found the agency's evaluation of Bashen's proposal to be reasonable, we now turn to Bashen's second challenge, that the award to IDC was improper because the firm misrepresented that it was capable of performing the contract when, according to the protester, IDC was an administratively dissolved company under relevant state law.<sup>3</sup> Protest at 8-9; Comments at 3-6. We are provided no basis to question the agency's judgment in this regard.

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<sup>2</sup> Bashen also argues that the agency failed to engage in meaningful discussions with the firm and points to several instances where it asserts a deficiency was assigned in the final evaluation that was not identified during discussions. We need not address this allegation because we conclude that the agency reasonably found Bashen's quotation to be technically unacceptable based on several deficiencies that were identified during discussions. As a result, even if we were to agree that the agency failed to engage in meaningful discussions in certain respects, Bashen has not shown it was prejudiced by any such error. See Bannum, Inc., B-408838, Dec. 11, 2013, 2013 CPD ¶ 288 at 4 (prejudice is an element of every viable protest).

<sup>3</sup> Here, the technical unacceptability of Bashen's quotation is not determinative of the firm's interested party status to challenge the evaluation of IDC, since the protester challenges the technical acceptability of IDC, and IDC is the only other offeror eligible for award. See Armed Forces Merchandise Outlet, Inc., B-294281, Oct. 12, 2004, 2004 CPD ¶ 218 at 4-5.

The record shows that IDC submitted its quotation on June 17, 2015. AR, exh. 27, IDC Technical Proposal, at 1. That quotation identified the vendor as “Institute for Diversity Certification” and made no reference to the Society for Diversity. See generally id. As part of its evaluation, the agency consulted the SAM website and the Federal Awardee Performance and Integrity Information System (FAPIS). AR, exh. 18, SAM Entity Record, at 1-4; exh. 19, FAPIS Summary Report. The SAM Entity Record identified the legal entity as the Society for Diversity, Inc., doing business as Institute for Diversity Certification. AR, exh. 18, SAM Entity Record, at 1. It also listed the same address and contact information, as included in IDC’s proposal. Based on this information, the contracting officer determined that IDC was a responsible offeror and was qualified and eligible to receive award of the contract. AR, exh. 20, Determination of Contractor Responsibility, at 1.

While Bashen argues that IDC and the Society for Diversity, Inc. are two separate legal entities, and that IDC is ineligible for award due to it being an administratively dissolved corporation, the record does not support this allegation. As discussed, the SAM Entity Record identifies IDC as being the d/b/a name for the awardee, Society for Diversity, Inc. Moreover, nothing in SAM or FAPIS indicates that IDC is ineligible for award as the protester alleges. Consequently, we have no reason to question the agency’s determination that IDC was technically acceptable or otherwise eligible for award.<sup>4</sup>

The protest is denied.<sup>5</sup>

Susan A. Poling  
General Counsel

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<sup>4</sup> The record shows that Bashen sent information to the contracting officer after award providing evidence that there was a separate legal entity named IDC and that the company was administratively dissolved. See generally AR, exh. 25, Post Award Correspondence. While the record is not clear on whether there is a separate legal entity named “Institute for Diversity Certification” that is administratively dissolved, that fact is irrelevant to this decision. The record shows that the agency made award to the Society for Diversity, Inc. doing business as IDC, which is a valid company listed in SAM.

<sup>5</sup> Bashen argued in its original protest that the solicitation improperly restricted competition and is biased. Such arguments are untimely challenges to alleged improprieties apparent from the face of the solicitation and will not be considered further. See 4 C.F.R. § 21.2(a)(1).