



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

# Decision

**Matter of:** Advantedge Technology, Inc.

**File:** B-414974; B-414974.2

**Date:** October 27, 2017

Mary Beth Bosco, Esq., Rodney M. Perry, Esq., and Elizabeth N. Jochum, Esq., Holland & Knight, LLP, for the protester.

Michael J. Gardner, Esq., Troutman Sanders LLP, for JSL Technologies, Inc., an intervenor.

John M. Davis, Esq., and Chinedum U. Okparaeke, Esq., Department of the Navy, for the agency.

Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

## DIGEST

Protest challenging agency's evaluation of proposals and source selection decision is denied where record shows the agency's evaluation and source selection were reasonable and consistent with the terms of the solicitation and applicable statutes and regulations.

## DECISION

Advantedge Technology, Inc. (ATI), of Port Hueneme, California, protests the issuance of a task order to JSL Technologies, Inc., of Oxnard, California, under request for proposals (RFP) No. N00024-16-R-3008, issued by the Department of the Navy for engineering and technical support services for the Desert Ship and missile assembly facility in White Sands, New Mexico.<sup>1</sup> ATI argues that the agency misevaluated proposals and made an unreasonable source selection decision.

We deny the protest.

<sup>1</sup> The Desert Ship and missile assembly facility is a platform for testing naval weapons systems, missiles, and gun munitions, and for providing launch operations for suborbital space systems and research rockets. Contracting Officer's Statement of Facts, at 1.

The RFP contemplates the issuance, on a best-value tradeoff basis, of a cost-plus-fixed-fee task order to perform the agency's requirements for a base year and four 1-year options. Firms were advised that proposals would be evaluated considering cost and the following non-cost evaluation factors: technical capability and experience, and past performance. Technical capability and experience was significantly more important than past performance. RFP at 92.<sup>2</sup> The RFP also stated that the non-cost factors in combination were significantly more important than cost. Id. Under the technical capability and experience factor, the RFP identified four equally-weighted subfactors: plan to accomplish, key personnel qualifications and experience, retention and recruitment plan, and transition plan.<sup>3</sup> Id. The agency was to evaluate proposed cost for realism and completeness, and to perform a most probable cost evaluation to arrive at a total evaluated cost for each offeror. RFP at 95-96.

In response to the solicitation, the agency received a number of proposals, including those of ATI and JSL. The agency evaluated the proposals, engaged in discussions with the offerors, solicited, obtained and evaluated final proposals and assigned the following ratings:

|                                     | <b>ATI</b>             | <b>JSL</b>   |
|-------------------------------------|------------------------|--------------|
| Technical Capability and Experience | Good                   | Good         |
| Plan to Accomplish                  | Good                   | Good         |
| Key Personnel                       | Good                   | Outstanding  |
| Recruitment and Retention           | Acceptable             | Acceptable   |
| Transition Plan                     | Good                   | Good         |
| Past Performance                    | Substantial Confidence | <sup>4</sup> |
| Proposed Cost                       | \$44,636,865           | \$38,682,220 |
| Most Probable Cost                  | \$45,020,536           | \$42,204,738 |

AR, exh. 19, Source Selection Decision Document (SSDD), at 2, 4. On the basis of these evaluation results, the agency issued a task order to JSL, concluding that its proposal offered the best value to the government. After being advised of the agency's

---

<sup>2</sup> All references to the RFP are to the version identified in the record as amendment 0001 to the RFP, unless otherwise noted. Agency Report (AR) exh. 6. The agency issued three subsequent amendments to the RFP that did not make any changes to the evaluation scheme that are relevant to the protest. AR, exhs. 11, 12, 13.

<sup>3</sup> The agency was to assign adjectival ratings of outstanding, good, acceptable, marginal or unacceptable for each factor and subfactor under the technical capability and experience factor. RFP at 93. The agency was to assign adjectival ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence or unknown (neutral) confidence under the past performance factor. RFP at 96-97.

<sup>4</sup> The evaluation of past performance is not at issue here. The agency redacted the past performance rating assigned to JSL from the source selection decision document.

selection decision and requesting and receiving a debriefing, ATI filed the instant protest.<sup>5</sup>

## PROTEST

ATI challenges several aspects of the agency's evaluation of proposals. ATI maintains that the agency unreasonably assigned all of the adjectival ratings that were given to its proposal under the technical capability and experience factor, and argues that, under each of the identified subfactors, its proposal should have been assigned a higher rating. ATI also argues that the agency engaged in disparate treatment in its evaluation of the ATI proposal in comparison to its evaluation of the JSL proposal. Finally, ATI raises a challenge to the agency's cost realism evaluation of JSL's proposal.

We have considered each of ATI's allegations and find no basis to sustain its protest. We note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. ManTech Advanced Sys. Int'l, Inc., B-413717, Dec. 16, 2016, 2016 CPD ¶ 370 at 3. We discuss ATI's principal allegations below.

### Adjectival Ratings

ATI first argues that the agency unreasonably assigned the adjectival ratings given to its proposal under each of the subfactors of the technical capability and experience factor. ATI does not take issue with the substance of any of the agency's evaluation findings under the first two subfactors (plan to accomplish, and key personnel), and argues only that, based on the number of strengths and weaknesses assigned to its proposal, it should have received higher adjectival ratings than were assigned.<sup>6</sup> With respect to the

---

<sup>5</sup> The task order was competed among small businesses holding contracts under the Navy's Seaport-E multiple award indefinite-delivery, indefinite-quantity contract program. The task order is valued in excess of \$25 million. Accordingly, our Office has jurisdiction to consider this protest. 10 U.S.C. § 2304c(e)(1)(B).

<sup>6</sup> ATI's initial protest did not challenge any of the weaknesses assigned to its proposal under the key personnel subfactor, arguing instead that the agency unreasonably assigned it a good rather than outstanding rating under this subfactor because its proposal had been assigned 12 strengths and 4 weaknesses in this area. In its comments responding to the agency report, ATI argued for the first time that two of the weaknesses assigned to its proposal under the key personnel subfactor--relating to the qualifications of its proposed senior systems engineer and senior programmer--were unreasonably assigned.

(continued...)

other two subfactors (recruitment and retention plan, and transition plan), ATI argues that the agency unreasonably assigned its proposal one or more weaknesses.<sup>7</sup>

We find no merit to these allegations. Turning to ATI's allegations relating to the assignment of adjectival ratings under the first two subfactors, as noted, ATI did not timely take issue with the substance of the agency's evaluation findings. Instead, ATI argues that its proposal should have been assigned a higher adjectival rating under these subfactors in light of the solicitation's definitions of the adjectival ratings, and based on the number of strengths or weaknesses identified by the agency in its evaluation.

As we have consistently noted, the ratings assigned to a proposal, be they numeric or adjectival scores, are merely guides for intelligent decision making. Metis Solutions, LLC, et al., B-411173.2 et al., July 20, 2015, 2015 CPD ¶ 221 at 13. The ratings assigned largely are immaterial, provided that the evaluators and source selection officials have considered the underlying bases for the ratings, including the specific advantages and disadvantages associated with the content of the proposals. Id. The record here shows that, in fact, the evaluators and source selection official gave detailed consideration to the substance of the ATI proposal and thoroughly documented their findings. AR, exh. 17, SSEB Report; exh. 19, SSDD. Under these circumstances, the assignment of one adjectival rating versus another largely was immaterial, since the agency's evaluation accurately reflected the merits of the ATI proposal. We therefore have no basis to object to the agency's evaluation for this reason.

We similarly have no basis to object to the agency's identification of the weaknesses challenged by ATI in its protest. ATI's allegations in this respect amount to no more

---

(...continued)

We find these challenges to the substance of the agency's evaluation under the key personnel subfactor untimely. Under our Bid Protest Regulations, 4 C.F.R. § 21.2 (a)(2), protesters are required to file allegations within 10 days of when the protester knows or should know of its basis for protest. The record shows that ATI was provided a complete copy of the source selection evaluation board's (SSEB) report relating to the evaluation of the ATI proposal with its written debriefing. Letter of Protest, Exhibit 2, ATI Debriefing Letter, enclosure 1. That report identified the weaknesses that ATI subsequently challenged for the first time in its comments. Because ATI did not raise these allegations within 10 days of when it knew of these bases for protest, we dismiss these arguments as untimely.

<sup>7</sup> In its initial protest, ATI argued that the agency unreasonably failed to assign its proposal a strength under the recruitment and retention plan subfactor because of the description in its proposal of its five-step recruiting process. ATI made no further mention of this allegation in its comments. We therefore deem this aspect of its protest abandoned. Batelco Telecomms. Co. B.S.C., B-412783, et al., May 31, 2016, 2016 CPD ¶ 155 at 4 n.5.

than disagreement with the agency's conclusions; such disagreement, without more, does not provide a basis for our Office to object to the agency's evaluation. n-Link/LSG Joint Venture, B-411352, 411352.2, July 1, 2015, 2015 CPD ¶ 194 at 9. We discuss one of ATI's allegations in this area for illustrative purposes.

The record shows that the agency identified a weakness in the ATI proposal under the transition plan subfactor because, although ATI was the incumbent contractor for this requirement, its proposal showed that the majority of its critical proposed personnel are new hires, and its identified critical personnel that are current ATI employees were not with the company during performance of a system upgrade that would have provided them with the experience to perform a system upgrade that is anticipated under the new contract. AR, exh. 17, SSEB Report, at 29. ATI concedes that it proposed a team of personnel that were not with the firm during the prior upgrade and that the same team that performed the prior upgrade would not perform the upcoming upgrade. ATI takes issue with the agency's finding because it claims that it has adequate institutional knowledge to properly train its new proposed team. However, this does not demonstrate that the agency's evaluation finding was unreasonable.

We have considered all of ATI's other challenges to the agency's evaluation conclusions and find them to be similarly without merit. We therefore deny this aspect of ATI's protest.

#### Disparate Treatment

ATI argues that the agency disparately evaluated its proposal and JSL's proposal under the key personnel, recruitment and retention plan, and transition plan subfactors. ATI maintains that the agency unreasonably assigned weaknesses to its proposal without also assigning weaknesses to the JSL proposal for what ATI characterizes as the same shortcomings. (Alternatively, ATI argues that the agency assigned strengths to the JSL proposal without also assigning strengths to its proposal for offering what it characterizes as similar benefits.) We have considered all of ATI's disparate evaluation arguments and find no basis to object to the agency's evaluation for the reasons advanced by ATI. We discuss one example for illustrative purposes.

The record shows that the agency assigned ATI's proposal a weakness under the key personnel subfactor because its proposed senior systems engineer lacked experience in fire control systems. In addition to raising an untimely argument regarding the reasonableness of the agency's assignment of that weakness, ATI also argues that the agency evaluated its proposal and the JSL proposal disparately because, according to ATI, JSL's senior systems engineer also did not have experience with fire control systems. In support of its allegation, ATI notes that the term "fire control system" appears only once in the resume of JSL's senior systems engineer. ATI maintains that the agency also should have assigned the JSL proposal a weakness for this same reason.

We find no merit to this allegation. The record shows that JSL's senior systems engineer, in fact, does have experience with fire control systems. His resume specifically notes that he worked on the anti-air warfare capabilities with the ballistic missile defense (BMD 5.0) functionality for air and missile defense system, and also performed worked in connection with the certification testing for integration of terminal high altitude area defense (THAAD) into the AEGIS class destroyers. AR, exh. 15, JSL Technical Proposal, at 61-63. The agency explains that this constitutes direct experience with fire control systems. Specifically, the agency states:

For example, Mr. [X's] resume discusses his experience as a test engineer for the Missile Defense Agency working on anti-air warfare capabilities with Ballistic Missile Defense (BMD) version 5.0 (the latest fielded AEGIS baseline used for fire control on U.S. Navy ships) and describes other relevant AEGIS Fire Control System experience. JSL FPR [final proposal revision], Volume I at 61-63, AR Enclosure (15). His resume also describes his direct involvement with the THAAD risk reduction test conducted to integrate THAAD into the BMD Architecture contributing directly to the fire control solution on an AEGIS Destroyer as part of his support to the Air Weapons Center, Weapons Division.

Agency Supplemental Report, at 10. ATI has not shown that the agency's explanation provided above is incorrect; as noted ATI's position is based on nothing more than a count of the number of times the phrase "fire control systems" appeared in Mr. X's resume. Based on the above, we conclude that, contrary to ATI's assertion, that there was no basis to assign a weakness to the JSL proposal based on a lack of fire control systems experience on the part of its proposed senior systems engineer.

As with ATI's challenges to the agency's technical evaluation, we have considered all of ATI's disparate treatment arguments and find them to be similarly without merit. We therefore deny this aspect of ATI's protest.

## Cost Evaluation

ATI argues that the agency failed adequately to evaluate the JSL cost proposal.<sup>8</sup> According to the protester, the agency's cost evaluation failed to identify the fact that JSL's proposed labor mix was inadequate and technically inferior to ATI's proposed labor mix to perform the requirements. In support of its allegation, ATI has identified 11 labor categories where the protester maintains that it offered more personnel to perform

---

<sup>8</sup> In its initial protest, ATI asserted that the agency misevaluated its cost proposal and made improper upward adjustments in arriving at ATI's most probable cost. ATI also speculated that JSL may have used uncompensated overtime in its proposal. The agency responded to these aspects of ATI's protest, but in filing its comments, ATI made no further mention of these allegations. We therefore deem them abandoned. Batelco Telecomms. Co. B.S.C., supra.

the requirement than did JSL. ATI therefore maintains that the agency's cost realism evaluation failed to take cognizance of this fact. Correspondingly, ATI maintains that these considerations should have resulted in the agency downgrading JSL's proposal in its technical evaluation.

We find no merit to this aspect of ATI's protest. The RFP specified the labor categories that offerors were to use to staff the requirement, and also specified the precise number of hours that offerors were required to provide in each labor category for each year of contract performance. RFP at 87.<sup>9</sup> For example, in the labor category of systems engineer, the RFP specified 3,760 hours for each contract year. Id. The RFP also specified the desired overall labor mix among different proficiency levels for each labor category, and provided definition for each proficiency level. In this latter respect, the RFP advised offerors that the agency desired their proposed staffing to be comprised of 40 percent senior-level personnel, 35 percent mid-level personnel and 25 percent junior-level personnel. RFP at 79.

The record shows that both firms proposed an identical level of effort, and that their respective proposed levels of effort were as prescribed in the solicitation. AR, exh. 14, ATI Cost Proposal, Attach. J.4, Cost Summary; exh. 15, JSL Proposal, Attach. 4, Cost Summary. In addition, the record shows that JSL--rather than the protester--proposed an overall labor mix that was slightly more skewed in favor of mid-level personnel rather than junior-level personnel. In this latter connection, the record shows that JSL proposed 42 percent senior-level personnel, 32 percent mid-level personnel and 26 percent junior-level personnel. AR, exh. 15, JSL Staffing Plan. In comparison, the protester proposed to staff the contract using 43 percent senior-level staff, 30 percent mid-level staff and 28 percent junior-level staff. AR, exh. 14, ATI Staffing Plan.

The record therefore establishes that ATI's allegation that JSL's proposed labor mix was inadequate and inferior to ATI's proposed labor mix is not factually accurate. We therefore have no basis to object to the agency's cost realism evaluation for the reasons advanced by ATI.

The protest is denied.

Susan A. Poling  
General Counsel

---

<sup>9</sup> The RFP as originally issued specified only the total number of hours per labor category. Amendment No. 0004 of the RFP made adjustments to the specified labor hours and further clarified this aspect of the solicitation by dividing those hours among regular time and overtime hours. RFP, Amendment N. 0004, at 2.