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Decision

Matter of: DynaLantic Corporation

File: B-416855

Date: December 26, 2018

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DIGEST

Protest challenging the agency's evaluation of protester's proposal and its exclusion from the competitive range is denied where the record shows that the evaluation was reasonable and consistent with the solicitation's evaluation criteria, and where the agency reasonably determined that the protester's proposal was unacceptable.

DECISION

DynaLantic Corporation, of Ozark, Alabama, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. W900KK-18-R-0004, issued by the Department of the Army, Army Contracting Command-Orlando, for the production, installation, and support of two utility helicopter (UH)-60A flight training devices (FTDs). DynaLantic protests that the agency unreasonably evaluated its proposal and improperly eliminated DynaLantic from the competitive range.

We deny the protest.

BACKGROUND

The RFP, issued on May 24, 2018 as a small-business set-aside, contemplated the award of a fixed-price contract for the FTDs. RFP at 3-8. According to the statement of work (SOW), the contractor will be required to deliver and install the training devices, software, spares, and associated technical data, including all operating, maintenance, and manufacturer documentation. Agency Report (AR), Tab D, SOW § 1, at 5. In addition, the contractor is required to provide operator and maintenance training

courses. Id. The contractor also will be required to provide two years of contractor logistics support for each FTD.¹ Id.

The RFP instructed offerors that proposals “shall be clear, concise, and shall include sufficient detail for effective evaluation and for substantiating the validity of stated assertions.” RFP § L.1.8, at 60. Offerors were warned not to rephrase or rehash the requirements, but to provide detail and rationale as to how they intended to meet the requirements. Id. The RFP required offerors to include with their proposals an SOW compliance matrix that listed the government’s requirements, and stated whether the proposal met, did not meet, or exceeded each requirement, along with a cross reference to the proposal paragraphs where the requirement is addressed. Id. § L.1.2.3, at 59. The RFP stated that this matrix “will only be used by the Government for traceability of the requirements, and will not be used as an evaluation criteri[on]/factor.” Id.

The RFP provided that award would be made on a best-value tradeoff basis, considering the following factors: technical, past performance, and cost/price. RFP §§ M.1.1, M.3.1, at 75, 81. The technical factor had three subfactors: technical approach, management, and logistics. Id. §§ M.3.1, M.5, at 81. For each subfactor, proposals were rated as outstanding, good, acceptable, marginal, or unacceptable. Id. § M.2.1, at 81. Proposals had to receive a rating of acceptable or higher for each of these subfactors in order to be considered for award. Id. §§ M.4.0, M.5.1, at 81.

As relevant here, for the logistics subfactor, RFP Section L, Instructions to Offerors, required offerors to include in their proposals detailed information regarding (1) operational availability of the FTD; (2) training and training materials; and (3) technical documentation. For operational availability, the RFP required that proposals:

shall discuss, in detail, how [the offeror’s] proposed approach will provide logistics support considerations for effective system operation and maintenance. The Offeror shall provide a detailed description of how the proposed design influences the system reliability and maintainability. The Offeror shall detail its process and performance metrics (to include formulas) that it will employ to meet or exceed the FTD operational availability of 85% and ensure minimal downtime during both normal and unanticipated spikes in the FTD training frequency (SOW 3.3.1 Logistics Support and 3.11 Quality Assurance).²

¹ The SOW identifies the contractor logistics support as an option to the contract, and states that the performance period for this support will be determined when the agency notifies the contractor of its intent to exercise the option. AR, Tab D, SOW § 3.3.1, at 7.

² The SOW defined operational availability using the following formula: total time / (total time + down time) = operational availability. AR, Tab D, SOW § 3.3.1, at 7.

RFP § L.5.0, at 67.

With respect to training and technical documentation, the RFP required that proposals:

shall describe [the offeror's] solution for providing the customer the necessary skill and technical data to operate, maintain, and support the system. As part of this solution, the Offeror shall describe its plan for delivering the necessary training, to include any related training materials (SOW 3.13 Training Products). The Offeror shall also describe its plan for delivering the related technical documentation (to include Logistics Product Data (LPD), operator manuals, maintenance manuals, [commercial off-the-shelf] manuals, special tools & test equipment data, and recommended spares data) (SOW 3.13 Training Products and related subparagraphs, and 3.3.7 Technical Publications and related subparagraphs).³

Id.

RFP Section M, Evaluation Factors for Award, stated that for the operational availability requirement, the agency would “evaluate the Offeror’s system reliability and maintainability process and performance metrics to ensure it at a minimum, satisfies an operational availability of 85%.” Id. § M.5.3.1, at 83. For the training and technical documentation requirements, the RFP stated that the agency would evaluate the proposed solution to “deliver[] the necessary training and technical documentation to ensure the customer has the skill and technical data to operate, maintain, and support the system.” Id. § M.5.3.2, at 83.

DynaLantic’s proposal addressed the requirement to meet or exceed 85% operational availability by stating: “Being a simulation training provider for non-standard rotary wing aircraft operating legacy simulation devices at 99% availability isn’t easy.” AR Tab B, Protest, Ex. F, DynaLantic Proposal at 32. The proposal also stated that DynaLantic would “hire and keep the most experienced simulation hardware development and support staff available,” and that it had “the team and resources to . . . maintain [the

³ The SOW explained that offerors had to provide to both FTD operators and maintainers a minimum of 40 hours of comprehensive training, including courseware, “through a combination of classroom, written instructions, and hands-on operation for the training systems.” AR, Tab D, SOW §§ 3.13-3.13.1, at 18-19. For the technical documentation, the SOW required offerors to prepare and provide “operation and maintenance manuals which shall accurately document all the information needed to keep the equipment operational for the training system.” Id. § 3.3.7, at 11. Offerors also had to validate and assist the government in verifying all technical documentation. Id. §§ 3.3.7.4, 3.3.7.5, at 12-13.

FTDs] to our operational standard that exceed[s] program requirements.”⁴ Id. In its SOW compliance matrix, DynaLantic reproduced the operational availability formula from the SOW and restated the requirement from the RFP that the contractor shall maintain a minimum operational availability of 85%, and stated that it “met” both requirements. Id., Protest, Ex. F, DynaLantic Proposal, SOW Compliance Matrix, at 4. Finally, DynaLantic’s proposal described certain logistics support that would be provided by its subcontractors. See id., Protest, Ex. F, DynaLantic Proposal at 37-42. To that end, the proposal included a table that identified three of DynaLantic’s subcontractors and summarized the logistics work and experience each subcontractor would bring to the contract. Id. at 37.

With respect to the training and technical documentation requirements, DynaLantic’s proposal included an integrated master schedule (IMS) that listed entries for “Maintainer Training” and “Instructor Training” covering 90 and 10 days, respectively. Id., IMS, at 2. The IMS also included entries for “Trainer Facilities Report”; “Database Design Document”; “Instructor Operator Manual”; “Maintenance Manuals”; and “Vendor Documentation.” Id. The proposal did not include any further description or detail of these entries. DynaLantic’s proposal also stated that the FTDs would be provided “inclusive of all hardware . . . software, and drawings such that the devices may be set up and made operational.” Id., Protest, Ex. F, DynaLantic Proposal at 34.

DynaLantic received the following ratings for the three subfactors under the technical factor:

	Technical Approach	Management	Logistics
Rating	Acceptable	Marginal	Unacceptable

AR, Tab F, Notification of Elimination from Competitive Range at 3.⁵ Under the logistics subfactor, DynaLantic’s proposal was assessed three deficiencies based on the following agency conclusions:

1. DynaLantic failed to provide detailed data to show that it could meet the 85% operational availability requirement.
2. DynaLantic’s proposal did not include a detailed plan to deliver the necessary training and training materials.

⁴ These statements were located in the section of DynaLantic’s proposal that addressed the management subfactor, not the logistics subfactor. See Protest, Ex. F, DynaLantic Proposal at 32.

⁵ The Notification of Elimination from Competitive Range had attached to it the source selection evaluation board’s consensus evaluation of DynaLantic’s technical proposal.

3. DynaLantic's proposal did not include a detailed plan to deliver the required technical documentation identified in the RFP and SOW.

AR, Tab F, Notification of Elimination from Competitive Range at 24, 26, 29.⁶

Regarding the first deficiency, the agency determined that DynaLantic's proposal "failed to propose reliability and maintainability process and performance metrics." Id. at 24. The agency found that DynaLantic "claims 99% availability on legacy simulation devices without explaining how they achieve that metric or providing any examples." Id. Moreover, the proposal "provide[d] no detailed data to support that they can meet the [operational availability] requirement" and did not "specifically state that they can meet the requirement to satisfy an operational availability of 85% on this UH-60A FTD effort." Id. With respect to the second deficiency, the agency found that DynaLantic's proposal "did not include a detailed plan for delivering the necessary training" and "does not illustrate how DynaLantic will provide the . . . necessary training." Id. at 26. Furthermore, the proposal "does not outline training courses, length of time for the training, or capacity of FTD operator and maintenance students." Id. at 26. For the third deficiency, the agency found that DynaLantic's proposal "did not include a detailed plan for delivering technical documentation, Logistics Product Data, operator manuals, maintenance manuals, spares data, and special tools and test equipment data," nor did it include any plan to validate or verify this documentation. Id. at 29. The agency found that each of the three deficiencies was a "material failure" that increased the risk of unsuccessful contract performance because each requirement was critical to the success of the contract. Id. at 24, 26, 29.

As a result of the unacceptable rating for the logistics subfactor, as well as the marginal rating for the management subfactor, the overall technical factor rating for DynaLantic was unacceptable, and the agency did not include DynaLantic's proposal in the competitive range. Id. at 3. Following a debriefing, DynaLantic timely filed a protest with our Office.

DISCUSSION

DynaLantic argues that the agency ignored relevant parts of its proposal in assessing three deficiencies to DynaLantic's proposal under the logistics subfactor. DynaLantic also asserts that it was improper to eliminate it from the competitive range because the deficiencies were informational, and not technical, and easily could have been corrected through discussions and minor proposal revisions.⁷ The agency argues that its

⁶ A deficiency was defined as "[a] material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level." RFP § M.2.1.2, at 78.

⁷ DynaLantic challenged the agency's evaluation of its proposal under all three subfactors. It also alleged that the agency engaged in unequal treatment in its

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evaluation was reasonable and that it properly assigned the deficiencies because DynaLantic's proposal failed to address certain RFP requirements. The agency contends that, given this evaluation, its exclusion of DynaLantic's proposal from the competitive range was reasonable and consistent with the terms of the RFP.

The Technical Evaluation

Where a protest challenges an agency's evaluation and its decision to exclude a proposal from a competitive range, we first review the propriety of the agency's evaluation of the proposal, and then turn to the agency's competitive range determination. InGenesis, Inc., B-412967.3, B-412967.4, Sept. 26, 2017, 2017 CPD ¶ 336 at 3. In so doing, 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 solicitation's evaluation criteria. Beretta USA Corp., B-406376.2, B-406376.3, July 12, 2013, 2013 CPD ¶ 186 at 5. An offeror's disagreement with the agency's evaluation, without more, is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7. Contracting agencies are not required to include a proposal in the competitive range where the proposal is not among the most highly rated. Federal Acquisition Regulation (FAR) § 15.306(c)(1); FPM Remediations, Inc., B-407933.2, Apr. 22, 2013, 2013 CPD ¶107 at 3-4.

As noted above, DynaLantic argues that the agency irrationally assessed the three deficiencies to DynaLantic's proposal under the logistics subfactor. With respect to the first deficiency, DynaLantic asserts that the proposal sections discussed above, including the statement that its proposed FTDs have a 99% historical availability, demonstrate that it met the 85% operational availability requirement. Protester's Comments at 14-15. As further support, DynaLantic points to the operational availability formula in the SOW compliance matrix and the table summarizing subcontractor logistics support in its proposal. Id. at 15-16.

In response to DynaLantic's protest, the agency states that the RFP required offerors to "include formulas" to describe the process and performance metrics used to meet 85% operational availability, but that "[n]ot a single formula can be found anywhere in [DynaLantic's] [t]echnical [v]olume." AR, Tab A, Combined Contracting Officer's Statement and Legal Memorandum at 33. The agency notes that the only place the formula appears is in DynaLantic's SOW compliance matrix, "which did not provide any specificity regarding a particular technical solution." Id. Moreover, the agency states

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evaluation of the technical approach subfactor. Because we conclude that the agency reasonably found DynaLantic's proposal unacceptable under the logistics subfactor, and therefore properly eliminated the proposal from the competitive range, DynaLantic is not an interested party to raise these other issues. See US21, Inc., B-415552.4, Aug. 1, 2018, 2018 CPD ¶ 255 at 6.

that the RFP made clear both that the compliance matrix would not be evaluated, and that proposals should provide convincing rationale to address how the offeror would meet the agency's needs, and not simply rehash or rephrase the requirements. Id. at 34. Finally, the agency states that the logistics support provided by DynaLantic's subcontractors has "absolutely nothing to do with the system maintainability and reliability." Id.

We find that the agency's assessment of this deficiency was reasonable, based on the terms of the RFP and its review of DynaLantic's proposal. The RFP required offerors to detail the process and performance metrics--including formulas--they would use to ensure 85% operational availability. RFP § L.5.0, at 67. As noted above, DynaLantic's proposal did not describe how it would meet this requirement. The statement that DynaLantic's proposed FTDs have a 99% historical availability does not "detail [the] process and performance metrics" that DynaLantic will employ to meet the operational availability requirement for this contract. Furthermore, the operational availability formula in the SOW compliance matrix did not provide any further discussion or description of the formula or the processes DynaLantic would utilize to meet the requirement. In any case, the RFP expressly stated that the compliance matrix "will not be used as an evaluation criteri[on]/factor" and it therefore was reasonable for the agency to determine this was not sufficient to meet this requirement.⁸ RFP § L.1.2.3, at 59.

In addition, the record does not support DynaLantic's claim that the table summarizing subcontractor logistics support identified the process and performance metrics for operational availability. Rather, that table discusses general accounting and corporate management procedures, inspection scheduling and tracking, corrective/preventative action requests, risk management and mitigation, and quality reporting dashboards; it does not even mention operational availability. Protest, Ex. F, DynaLantic Proposal at 37. Given the lack of detail in DynaLantic's proposal, we conclude that the agency reasonably assigned the proposal a deficiency for failing to provide detailed information

⁸ DynaLantic claims that it would have been appropriate for the agency to consider the operational availability formula in its SOW compliance matrix because section M of the RFP stated that the agency would "evaluate the Offeror's completed SOW/System Spec Compliance Matrix to ensure the Offeror's solution addresses all aforementioned SOW and System Specification requirements." Protester's Comments at 16-17; see also RFP § M.5.1.1.1, at 82. Even if, as DynaLantic argues, this language signaled that the agency would evaluate offerors' compliance matrices, it would contradict the language in section L stating that the matrix "will not be used as an evaluation criteri[on]/factor." This would therefore create a patent ambiguity that DynaLantic had to challenge prior to submission of proposals. 4 C.F.R. § 21.2(a)(1). At any rate, DynaLantic's inclusion of the operational availability formula in its compliance matrix still does not meet the RFP's requirement to describe the processes and procedures it would use to ensure 85% operational availability.

regarding the process and performance metrics it would use to meet the 85% operational availability requirement.

In challenging the second and third deficiencies, DynaLantic argues that the IMS entries for maintainer and instructor training and delivery of certain documentation, such as design documents and manuals, demonstrate how it would provide training and technical documentation. See Protest at 23-24; Protester Comments at 17. DynaLantic also relies on the statement in the proposal that the FTDs would be “inclusive of all hardware . . . software, and drawings.” Protester Comments at 17.

The agency asserts that the RFP required DynaLantic to do more than just list the training and technical documentation as line items on the IMS. AR, Tab A, Combined Contracting Officer’s Statement and Legal Memorandum at 35. The agency notes that the IMS was merely a timeline and did not provide any plan for meeting these requirements. Id. The agency contends that aside from the IMS line items, the proposal did not include a detailed plan to develop and deliver the training and training materials, or the technical documentation, and it did not even mention many of the required technical documents that were identified in the RFP. Id. at 38. In addition, the agency asserts that the proposal did not address a procedure or process for validating or verifying the documentation. Id.

Based on our review of the record, we find that the agency’s evaluation and assessment of the second and third deficiencies was reasonable. The RFP required DynaLantic to describe its plan to provide comprehensive training to both operators and maintainers. See RFP § L.5.0, at 67; AR, Tab D, SOW § 3.13, at 18-19. DynaLantic’s IMS lists maintainer and instructor training as separate line items, but its proposal contains no further detail or description of the training or training materials. Protest, Ex. F, DynaLantic Proposal, IMS at 2. The RFP also required offerors to describe their plans to prepare and provide specifically identified technical documentation that accurately documented the information necessary to keep the equipment operational, and how it would validate and verify this documentation. RFP § L.5.0, at 67; AR, Tab D, SOW §§ 3.3.7, 3.3.7.4, 3.3.7.5 at 11-13. Here again, DynaLantic’s IMS included a time period for delivery of certain documentation, but its proposal did not explain how DynaLantic would prepare or provide this documentation, nor did it even mention many of the technical documents specifically identified by the RFP. It also did not explain how it would verify or validate the documents. Finally, DynaLantic’s general statement that the FTD’s would be delivered inclusive of hardware, software, and drawings does not describe what those drawings are, or whether they include the technical documentation required by the RFP. Given this lack of detail, we find that it was reasonable for the agency to assess these two deficiencies to DynaLantic’s proposal.

In sum, our review of the record indicates that the agency reasonably evaluated and assessed three deficiencies to DynaLantic’s proposal under the logistics subfactor.

Based on this evaluation, it was reasonable for the agency to assign DynaLantic an unacceptable rating under this subfactor.⁹

Competitive Range Determination

DynaLantic claims that even if it had three deficiencies under the logistics subfactor, these deficiencies were informational and easy to correct during discussions. DynaLantic argues that it therefore should have been included in the competitive range and allowed to correct these issues.

Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, exclusion from the competitive range is generally permissible. InGenesis, Inc., B-412967.3, B-412967.4, Sept. 26, 2017, 2017 CPD ¶ 336 at 10. The evaluation of proposals and resulting determination as to whether a particular offer is in the competitive range are matters within the discretion of the contracting agency. ECC Renewables, LLC; Pacific Power, LLC, B-408907 et al., Dec. 18, 2013, 2014 CPD ¶ 9 at 6.

Here, the RFP stated that offerors had to receive an acceptable rating or higher on each of the three technical subfactors in order to be considered for award. As discussed above, the agency reasonably rated DynaLantic's proposal as unacceptable under the logistics subfactor because it failed to address a number of the RFP requirements. Moreover, the agency found that including DynaLantic's proposal in the competitive range and conducting discussions "would require resubmission and re-evaluation of a technical proposal" which "is not in the best interests of the Government and would not be conducive to an efficient competition." AR, Tab K, Competitive Range Determination at 13.¹⁰ Thus, we reject DynaLantic's claim that its deficiencies were informational and easily could have been corrected during discussions, and conclude that the agency properly eliminated DynaLantic from the competitive range.

The protest is denied.

Thomas H. Armstrong
General Counsel

⁹ The RFP defined an unacceptable proposal as one that "contains a material failure or combination of significant weaknesses that increases the technical risk of unsuccessful performance to an unacceptable level." RFP § M.2.1.1, at 78.

¹⁰ The agency report did not associate a tab with the competitive range determination. We refer to it here as Tab K, which is the next available tab in the sequence of the AR tabs.