



Decision

Matter of: Carolina Linkages, Inc. d/b/a Safe Ports, Inc.

File: B-417079

Date: January 24, 2019

William T. Welch, Esq., McMahon, Welch and Learned, PLLC, for the protester.
David E. Fletcher, Esq., and Brenna D. Duncan, Esq., Perkins Coie LLP, for Synergy Logistics Services, LLC, an intervenor.
Timothy J. Ryan, Esq., Timothy L. Wilson, Esq., and Daniel K. Poling, Esq., Defense Logistics Agency, 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 joint venture's past performance based on past performance examples performed by the constituent members of the joint venture is denied where nothing in the solicitation prohibited the agency from evaluating those examples.

DECISION

Carolina Linkages, Inc. d/b/a Safe Ports, Inc., of Charleston, South Carolina, protests the award of a contract to Synergy Logistics Services, LLC (SLS), of North Kansas City, Missouri, under request for proposals (RFP) No. SP3300-18-R-5004, issued by the Defense Logistics Agency as a small business set-aside for warehouse distribution services in the territory of Guam. Safe Ports argues that the agency misevaluated the SLS proposal and unreasonably made award to that firm.

We deny the protest in part and dismiss it in part.

Safe Ports' protest is confined to a challenge to the agency's evaluation of SLS's past performance.¹ In this regard, Safe Ports notes that SLS is a mentor-protégé joint

¹ In its original protest, Safe Ports also suggested that the agency misevaluated the SLS proposal because, according to the protester, the firm lacks the experience necessary to perform the management work required under the RFP. The agency provided a

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venture formed under section 8(a) of the Small Business Act comprised of two concerns, Accent Controls, Inc. (the mentor firm) and PrimeTech International, Inc., the section 8(a) concern. Safe Ports argues that the agency impermissibly relied on the past performance examples of the individual joint venture concerns rather than on past performance examples performed by the joint venture itself.

We deny this aspect of Safe Ports' protest. An agency properly may consider the relevant experience and past performance history of individual joint venture members, provided doing so is not expressly prohibited by the terms of the solicitation. HydroGeoLogic, Inc., B-406635, et al., July 25, 2012, 2012 CPD ¶ 224 at 5.

Here, the RFP here provided generally for evaluation of the offerors' past performance, but did not expressly prohibit consideration of past performance examples that were performed by one or another of the constituent members of the joint venture. RFP at 69-70. The agency also issued an amendment to the RFP that provided questions and answers relating to the terms of the solicitation. RFP Amend. No. 0002. Among other things, the agency was specifically asked whether it had any special requirements relating to teaming arrangements. Id. Question No. 10. In response to that question, the agency advised only that teaming arrangements, including joint ventures, were required to comply with the terms of the RFP, as well as the requirements of title 13 of the Code of Federal Regulations relating to the size status and participation of small business offerors in performing the contract. The RFP therefore did not expressly prohibit the agency from considering the past performance examples of individual joint venture members. It follows that the agency's consideration of the past performance examples of the awardee's constituent members was unobjectionable. We therefore deny this aspect of Safe Ports' protest.²

The protest is denied in part and dismissed in part.

Thomas H. Armstrong
General Counsel

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detailed response to Safe Ports' initial suggestion in its agency report. In responding to the agency report, Safe Ports quoted verbatim that portion of its initial protest where this suggestion was made, but did not otherwise respond substantively to the agency's report. We find this aspect of Safe Ports' protest abandoned. Yang Enterprises, Inc., B-415923, Mar. 12, 2018, 2018 CPD ¶ 109.

² In its comments responding to the agency report, filed 13 days after the agency report was submitted, Safe Ports argued for the first time that the past performance examples proffered for Prime Tech International were not for the requirements being solicited. We dismiss this aspect of Safe Ports' protest as untimely, as it was not filed within 10 days of when Safe Ports knew of the basis for this allegation, as required under our Bid Protest Regulations. 4 C.F.R. § 21.2(a)(2).