



Decision

Matter of: AECOM Management Services, Inc.; Fluor Intercontinental, Inc.;
PAE-Parsons Global Logistics Services, LLC

File: B-417506.2; B-417506.3; B-417506.4; B-417506.5; B-417506.6;
B-417506.7; B-417506.8; B-417506.9; B-417506.11

Date: August 7, 2019

Jeffery M. Chiow, Esq., Neil H. O'Donnell, Esq., Lucas T. Hanback, Esq., Emily A. Wieser, Esq., and Cassidy Kim, Esq., Rogers Joseph O'Donnell, PC, for AECOM Management Services, Inc.; Andrew E. Shipley, Esq., Stephen W. Preston, Esq., Philip E. Beshara, Esq., Souvik Saha, Esq., Matthew F. Ferraro, Esq., Elizabeth J. D'Aunno, Esq., and Chanda L. Brown, Esq., Wilmer Cutler Pickering Hale and Dorr LLP, and James A. Hughes, Esq., Hughes Law PLC, for Fluor Intercontinental, Inc.; Anuj Vohra, Esq., Christian N. Curran, Esq., Olivia L. Lynch, Esq., Zachary H. Schroeder, Esq., Lauren H. Williams, Esq., and James G. Peyster, Esq., Crowell & Moring LLP, for PAE-Parsons Global Logistics Services, LLC, the protesters. Lee P. Curtis, Esq., Seth H. Locke, Esq., David E. Fletcher, Esq., Eric A. Aaserud, Esq., Alexander O. Canizares, Esq., Julia M. Fox, Esq., and Brenna D. Duncan, Esq., Perkins Coie, LLP, for Kellogg, Brown & Root Services, Inc.; Kevin P. Mullen, Esq., J. Alex Ward, Esq., James A. Tucker, Esq., Sandeep N. Nandivada, Esq., R. Locke Bell, Esq., Lauren J. Horneffer, Esq., and Caitlin A. Crujido, Esq., Morrison & Foerster LLP, for Vectrus Systems Corporation; Andrew Shipley, Esq., Stephen W. Preston, Esq., Philip E. Beshara, Esq., Souvik Saha, Esq., Matthew F. Ferraro, Esq., Elizabeth J. D'Aunno, Esq., and Chanda L. Brown, Esq., Wilmer Cutler Pickering Hale and Dorr, LLP, for Fluor Intercontinental, Inc.; and Anuj Vohra, Esq., Christian N. Curran, Esq., Olivia L. Lynch, Esq., Zachary H. Schroeder, Esq., and Lauren H. Williams, Esq., Crowell & Moring LLP, for PAE-Parsons Global Logistics Services, LLC, the intervenors. Wade L. Brown, Esq., Matthew R. Wilson, Esq., Jonathan A. Hardage, Esq., Debra J. Talley, Esq., Scott A. Johnson, Esq., and Alex M. Cahill, Esq., Department of the Army, for the agency. Scott H. Riback, Esq., Evan D. Wesser, Esq., and Tania Calhoun, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protests are dismissed where the matter involved is the subject of litigation before a court of competent jurisdiction.

DECISION

AECOM Management Services, Inc.,¹ of Germantown, Maryland, protests the award of contracts (and the issuance of task orders) in connection with the logistics civil augmentation program (LOGCAP) to Kellogg, Brown & Root Services, Inc. (KBR), of Houston, Texas; Vectrus Systems Corporation, of Colorado Springs, Colorado; Fluor Intercontinental, Inc., of Greenville, South Carolina, and PAE-Parsons Global Logistics Services (P2GLS), of Arlington, Virginia, under request for proposals (RFP) No. W52P1J-16-R-0001, which was issued by the Department of the Army, for support services for U.S. Military installations worldwide. Additionally, Fluor and P2GLS, both of which received LOGCAP contracts, protest the Army's decision to issue task orders to KBR and Vectrus in support of U.S. military installations in the African Command (AFRICOM), European Command (EUCOM), Central Command (CENTCOM), Pacific Command (PACOM), and Afghanistan. All three protesters primarily challenge the agency's evaluation of proposals, and resulting selection decisions.

We dismiss the protests because the subject matter of the protests is currently pending before a court of competent jurisdiction.

BACKGROUND

LOGCAP fulfills the Department of the Army's requirements to provide global logistical support capabilities through the Army Sustainment Command to Geographical Combatant Commands (GCCs) and Army Service Component Commands (ASCCs) so that military units can carry out critical missions without having to focus on base operation activities. LOGCAP establishes contracted solutions and capabilities, incorporating an extensive portfolio of services, such as: "Setting the Theater"; supply operations; transportation services; engineering services; base camp services; and other logistics and sustainment support services. These services are detailed in more than 200 work breakdown structure (WBS) references in the Performance Work Statement (PWS), including: minor construction; food services; laundry; morale, welfare and recreation services; billeting; and facility management. See Agency Report (AR), Tab 120-1, Source Selection Plan, at 5.

The RFP, which was issued on November 20, 2017, and subsequently amended 11 times, sought proposals for the award of multiple indefinite-delivery, indefinite-

¹ URS Federal Services, Inc. submitted the original proposal in this acquisition, but during the competition, it changed its name to AECOM Management Services, Inc.

quantity (IDIQ) contracts for the Army's fifth generation LOGCAP, LOGCAP V. The RFP contemplated the award of between four and six IDIQ contracts, with each contract having an initial five-year ordering period and five, 1-year optional ordering periods. RFP at 2.² Task orders can be awarded using fixed-price, cost-reimbursable, or labor-hour type contract line item numbers. Id. at 3. The cumulative maximum anticipated dollar amount for all of the IDIQ contracts is \$82 billion. Id.

In addition to the award of the IDIQ contracts, the RFP also contemplated the issuance of the first seven task orders in support of U.S. military operations in: Northern Command (NORTHCOM); Southern Command (SOUTHCOM); EUCOM; AFRICOM; CENTCOM; PACOM; and Afghanistan. Id. at 115-116.³

Offerors were required to submit only one proposal encompassing all six GCCs/ASCCs and Afghanistan. RFP at 101. Award of the IDIQ contracts and issuance of the corresponding seven initial task orders was to be made on a best-value tradeoff basis, considering the following four factors, which are listed in descending order of importance: (1) technical/management; (2) past performance; (3) small business participation; and (4) cost/price. Id. at 114-115. With respect to the technical/management factor, the Army was to assign a separate adjectival rating for each GCC/ASCC. Id. at 115. With respect to the past performance and small business participation factors, the agency was to assign one overall adjectival rating for each factor. Id. With respect to cost/price, the Army was to determine a separate total evaluated cost/price for each GCC/ASCC and Afghanistan. Id.

The RFP specified that the Army would make seven best-value decisions and "all awards would be made concurrently." Id. For example, with respect to EUCOM, the RFP provided that the Army would "make an award (Basic IDIQ and associated Task Order(s))." Id. Thus, the selection decision for each GCC/ASCC and Afghanistan would be for both the base LOGCAP V IDIQ contract and the associated task order for the specific GCC/ASCC and Afghanistan. If an offeror's proposal was not selected for any GCC/ASCC or Afghanistan, it would not receive an IDIQ contract.

² References herein to the RFP and its associated attachments are to the version produced by the Army that is conformed through RFP amendment No. 11.

³ The regions were divided into 3 operational groups. Operational group 1 included EUCOM and PACOM; an offeror was eligible to receive only one task order award in operational group 1. RFP at 115-116. Operational group 2 included CENTCOM, NORTHCOM, AFRICOM, and SOUTHCOM; an offeror was eligible to receive only one task order award in operational group 2. Id. at 116. Operational group 3 included only Afghanistan; all offerors that were selected for an operational group 1 or 2 award, with the exception of the CENTCOM awardee, were eligible for award of the Afghanistan task order. Id.

The Army received six proposals in response to the RFP from DynCorp International LLC, AECOM, Fluor, P2GLS, KBR, and Vectrus. On April 9, the Army issued its source selection decision memorializing the seven best-value decisions contemplated by the RFP. Specifically, the Army determined that the following proposals offered the best value to the government:

GCC/ASCC	Awardee	Total Evaluated Cost/Price
Operational Group 1		
EUCOM	KBR	\$183,304,832
PACOM	Vectrus	\$349,187,574
Operational Group 2		
CENTCOM	Vectrus	\$1,033,852,367
NORTHCOM	KBR	\$393,988,698
AFRICOM	Fluor	\$137,222,538
SOUTHCOM	P2GLS	\$34,596,500
Operational Group 3		
Afghanistan	KBR	\$1,372,043,985

AR, Tab 123, Source Selection Decision, at 7, 12, 15, 18, 19, 22, 23.

As a result of the selection decisions, KBR, Vectrus, Fluor, and P2GLS simultaneously received both LOGCAP V IDIQ contracts and the associated task orders. In contrast, because DynCorp and AECOM were not found to offer the government the best value in any GCC/ASCC or Afghanistan, neither offeror received an IDIQ contract.

On April 22, DynCorp filed a protest with our Office challenging the agency's award of the contracts and issuance of the task orders. DynCorp primarily challenged the agency's evaluation of proposals, and the resulting best-value decisions. On May 1, AECOM also filed a protest with our Office challenging the agency's award of the contracts and issuance of the task orders. AECOM similarly challenged the agency's evaluation of proposals, and the resulting best-value decisions. Also on May 1, Fluor and P2GLS, both of which had been awarded IDIQ contracts and the associated task orders for AFRICOM and SOUTHCOM, respectively challenged discrete GCC/ASCC task order award decisions. Specifically, Fluor challenged the agency's decisions with respect to EUCOM, PACOM, CENTCOM, and Afghanistan, while P2GLS challenged the PACOM and AFRICOM decisions. Our Office separately developed each protest.

On July 31, our Office issued a decision denying DynCorp's protest, DynCorp Int'l, LLC, B-417506, B-417506.10, July 31, 2019, 2019 CPD ¶ __. Subsequent to our decision, DynCorp notified our Office on August 5 that it filed a protest with respect to the LOGCAP V procurement with the United States Court of Federal Claims.

DISCUSSION

Our Bid Protest Regulations provide that we will not decide a protest where the matter involved is the subject of litigation before a court of competent jurisdiction. 4 C.F.R. § 21.11(b). Even where the issues before the court are not the same as those raised in our Office by a protester, or are brought by a party other than the protester, we will not consider the protest if the court's disposition of the matter would render a decision by our Office academic. Consolidated Serv. Grp., Inc., et al., B-416443.3 et al., Nov. 19, 2018, 2018 CPD ¶ 393 at 4-5; Schuerman Dev. Co., B-238464.3, Oct 3, 1991, 91-2 CPD ¶ 286 at 2-3. Here, the matter involved in the protests is currently before a court of competent jurisdiction.

Specifically, DynCorp is challenging before the Court of Federal Claims its non-award of a LOGCAP V IDIQ contract (and the resulting task order awards) in any of the GCCs/ASCCs or Afghanistan. AECOM's protest currently pending before our Office similarly challenges its non-award of a LOGCAP V IDIQ contract (and the associated task orders) in any of the GCCs/ASCCs or Afghanistan. Additionally, although Fluor and P2GLS were awarded IDIQ contracts (and the associated task orders for AFRICOM and SOUTCHOM, respectively), they nevertheless challenge the agency's decisions with respect to the issuance of other specific GCC/ASCC task orders. The unique circumstances of this procurement, however, inextricably intertwined the agency's contract award and task order issuance decisions.

In this regard, the RFP sought proposals for the award of between four and six LOGCAP V IDIQ contracts. RFP at 2. The RFP also contemplated the simultaneous issuance of the first seven task orders. Id. at 115-116. To this end, the RFP required offerors to submit only one proposal encompassing all GCCs/ASCCs and Afghanistan that would be covered by the seven initial task orders, and specifically provided that the agency would conduct seven best-value decisions and make all awards "concurrently." Id. at 101, 115. Furthermore, the RFP provided that the selection decision for each GCC/ASCC and Afghanistan would be for both the underlying IDIQ contract, as well as the associated task orders. Id. at 115. Additionally, the Army issued one source selection decision encompassing all contract and task order awards. Agency Report, Tab 123, Source Selection Decision.

Therefore, the court's resolution of DynCorp's protest challenging the agency's evaluation of proposals and resulting award decisions could render a decision by our Office on AECOM's, Fluor's, and P2GLS' similar challenges academic. See, e.g., Robinson Enters.--Request for Recon., B-238594.2, Apr. 19, 1990, 90-1 CPD ¶ 402 at 2 (affirming dismissal of a protest challenging the protester's exclusion from the competitive range where a second disappointed offeror filed a protest in court challenging the agency's evaluation of proposals because the potential relief our Office could grant in the dismissed protest, i.e., reevaluation of proposals, was virtually identical to the remedies that could be granted by the court in the second protest); Snowblast-Sicard, Inc., B-230983.2, Aug. 30, 1989, 89-2 CPD ¶ 190 at 2 (similarly

dismissing a protest filed before our Office when a second disappointed offeror's protest filed before a court requested the same remedy of re-solicitation of the requirements).

The protests are dismissed.

Thomas H. Armstrong
General Counsel