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# Decision

**Matter of:** Science Applications International Corporation

**File:** B-417976

**Date:** December 10, 2019

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## DIGEST

1. Challenge to the assignment of a significant weakness to the protester's proposal is denied where the agency reasonably concluded that proposal used a labor category that did not align with the requirements of the performance work statement.

2. Protest that the agency treated offerors unequally in the evaluation of labor categories is denied where the agency reasonably concluded that the protester's proposed approach required more explanation than the awardee's.

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## DECISION

Science Applications International Corporation (SAIC), of Reston, Virginia, protests the issuance of a task order to Armed Forces Services Corporation (AFSC), of Arlington, Virginia, by the Department of the Army, Army Materiel Command, under request for proposals (RFP) No. W15QKN-19-R-0045, to provide sexual harassment and assault response training. SAIC argues that the agency unreasonably and unequally evaluated the protester's and awardee's proposals.

We deny the protest.

## BACKGROUND

The Army issued the solicitation on June 18, 2019, seeking proposals to provide "Sexual Harassment/Assault Response & Prevention" training courses "for the purpose

of increasing the physical and psychological health, resilience, and performance of Soldiers, Families, and Department of the Army Civilians, Department of the Defense Personnel, Contractors . . . United States (US) Government Agencies, and Allied Forces.” Agency Report (AR), Tab 5j, Amended Performance Work Statement (PWS), at 1. The competition was limited to firms that were awarded an Army Human Resource Solutions Personnel Life Cycle Support indefinite-delivery, indefinite-quantity (IDIQ) contract. Combined Contracting Officer’s Statement & Memorandum of Law (COS/MOL) at 2. The RFP anticipated the issuance of a fixed-price task order with a base period of 9 months and four 12-month options. AR, Tab 5h, Amended Basis for Award, at 1.

The RFP advised that proposals would be evaluated based on two factors: (1) technical, and (2) price.<sup>1</sup> AR, Tab 5h, Amended Basis for Award, at 1. The technical factor had three criteria: (1) understanding of the requirement, (2) completeness and adequacy of the response, and (3) feasibility of approach. Id. at 5-6; see also AR, Tab 27, Source Selection Decision Document (SSDD) at 2-3. For purposes of award, the technical factor was “more important” than price. AR, Tab 5h, Amended Basis for Award, at 1.

The Army received proposals from seven offerors<sup>2</sup>, including SAIC and AFSC, by the closing date of July 8. AR, Tab 27, SSDD, at 4. As relevant here, the agency evaluated the protester’s and awardee’s proposals as follows:<sup>3</sup>

	SAIC	AFSC
Technical Factor	Acceptable	Outstanding
Evaluated Price <sup>4</sup>	\$165,073,468	\$182,644,276

Id. at 5.

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<sup>1</sup> The RFP also contained no-fee cost-reimbursement contract line items for other direct costs, such as travel. AR, Tab 5h, Amended Basis for Award, at 5.

<sup>2</sup> Although firms that compete for task orders under IDIQ contracts are generally referred to as “vendors,” the record and the parties’ briefing primarily use the term “offerors.” For the sake of consistency, we refer to the firms that competed for the award as offerors.

<sup>3</sup> The agency assigned proposals one of the following ratings under the technical factor: outstanding, good, acceptable, marginal, or unacceptable. AR, Tab 27, SSDD, at 3.

<sup>4</sup> The evaluated price was based on offerors’ proposed prices and the price for an option to extend performance under Federal Acquisition Regulation clause 52.217-8. AR, Tab 27, SSDD, at 5.

The Army assigned AFSC's proposal two significant strengths, one strength, and no weaknesses or deficiencies. Id. The Army assigned SAIC's proposal two significant strengths, one strength, one significant weakness, and no deficiencies. Id. As discussed below, the significant weakness concerned the protester's approach to selecting an IDIQ labor category for one of the positions identified in the PWS. Id. at 11.

The source selection authority (SSA) compared the offerors' proposals and concluded that AFSC's proposal provided the best value to the government under the RFP's evaluation criteria. See id. at 13-16. The SSA stated that AFSC's proposal "indicates an exceptional approach and understanding of the requirements, contains multiple significant strengths and one strength, [the] risk of unsuccessful performance is low, and the cost/price is determined to be fair and reasonable since adequate competition exists." Id. at 16. The agency provided SAIC a written debriefing and responded to additional written questions. This protest followed.<sup>5</sup>

## DISCUSSION

SAIC challenges the Army's award to AFSC based on two primary arguments: (1) the agency unreasonably assigned its proposal a significant weakness based on its selection of a labor category; and (2) even if the agency reasonably assigned the significant weakness to its proposal, the agency evaluated offerors unequally because it did not assign a similar significant weakness to the awardee's proposal. For the reasons discussed below, we find no basis to sustain the protest.<sup>6</sup>

In reviewing protests challenging an agency's evaluation of proposals in a task order competition, our Office does not reevaluate proposals, but examines the record to determine whether the agency's judgment was reasonable and in accordance with the stated evaluation criteria and applicable procurement laws and regulations. Trandes Corp., B-411742 et al., Oct. 13, 2015, 2015 CPD ¶ 317 at 6. A vendor's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

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<sup>5</sup> The awarded value of the task order at issue exceeds \$25 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts awarded under the authority of Title 10 of the U.S. Code. 10 U.S.C. § 2304c(e)(1)(B).

<sup>6</sup> The protester raises other collateral issues. Although we do not address every issue, we have reviewed them all and find no basis to sustain the protest. Additionally, the protester withdrew other challenges to the evaluation of the awardee's proposal. Protester's Comments, Oct. 28, 2019, at 3 n.1.

## Evaluation of Protester's Labor Categories

SAIC argues that the Army unreasonably assigned its proposal a significant weakness based on its selection of a labor category for an instructor position. The protester contends that the agency applied an unstated evaluation criterion and that its proposal in any event satisfied the unstated criterion.

As relevant here, the PWS requires the contractor to provide master resiliency trainer (MRT) courses for Army personnel and other individuals. PWS at 25. The PWS identified four levels of MRT courses, which progress from level 1 to level 4. Id. at 25-26. The contractor will be required to provide multiple MRT-performance experts (MRT-PEs) to instruct each MRT level course. Id. All MRT-PE instructors must "possess a masters or doctoral degree from an accredited college or university in the field of Psychology, Counseling Psychology, Counseling Education, Coaching Education, or Kinesiology with a specialized emphasis in sport and/or performance psychology." Id. at 10. In order to teach a particular MRT level course, an MRT-PE must have completed at least the lower level courses; an MRT level 3 course instructor, for example, must have completed the MRT level 1 and 2 courses. See id. at 25-26. The PWS also requires that the contractor provide for each course a "primary" instructor that has completed the level 4 course. Id.

The technical factor required offerors to describe their approaches to performing the tasks in the PWS. AR, Tab 5h, Amended Basis for Award, at 3-4. The solicitation stated that the agency would evaluate "[t]he extent to which the proposal demonstrates a clear understanding of the requirements in the PWS to be satisfied, issues to be resolved, and the required tasks, services, and skill sets required to achieve program objectives." Id. at 5. Offerors were also cautioned that "[m]arginal levels of detail could indicate a lack of understanding concerning requirements and may result in the entire proposal receiving an unfavorable rating." Id. at 6.

With regard to staffing the positions identified in the PWS, offerors were required to explain their staffing approach, including their "methodology/rationale for determining labor mix, and use of junior, mid-level, and senior resources for each performance period for this requirement." Id. at 3. The RFP stated that the proposed labor categories must "correlate to those identified in the IDIQ base contract." Id. The IDIQ contract identifies experience and education requirements for the junior, mid, and senior level labor categories. AR, Tab 23, IDIQ Contract Labor Categories, at 1. The IDIQ contract also identifies specific labor categories, which list additional requirements. As relevant here, the instructor labor category has the following minimum requirements:

Junior-level instructor: up to 3 years of experience;

Mid-level instructor: 3 to 9 years of experience and a bachelor's degree;

Senior-level instructor: at least 10 years of experience and a master's degree.

Id. at 1, 11.

SAIC proposed to use the mid-level instructor labor category for all of the MRT-PE level 1, 2, 3, and 4 positions. AR, Tab 9, SAIC Technical Proposal, at App. B. The Army found that the protester's proposal merited a significant weakness because it "proposes an inadequate IDIQ labor category for Master Resiliency Trainer (MRT) Level 4 positions" and "did not sufficiently explain its methodology for determining the labor mix, and use of junior, mid-level, and senior resources." AR, Tab 11, SAIC Technical Evaluation, at 2. The agency found that the proposal posed risk in connection with the MRT-PE level 4 position because of the higher experience requirements and training duties for this position, as compared with the level 1-3 positions. Id. at 2-3. In this regard, the agency noted that "MRT Level 4 Instructors are required to have approximately four years of MRT experience and training to achieve the MRT Level 4 certification," and that "MRT Level 4 personnel take on additional responsibilities as primary instructors for the courses described in [the] PWS." Id. The agency stated that the "primary instructor" duties of the MRT level 4 position and the master's degree education requirements were consistent with the requirements for senior-level instructors. Id. For these reasons, the agency concluded that "MRT Level 4 Instructors align with a 'Senior Instructor' position instead of a 'Mid-Level Instructor' position." Id. at 3.

The Army found that SAIC's proposal to staff the MRT level 4 position under the mid-level labor category increases the risk of unsuccessful performance for the following reasons:

In accordance with PWS Technical Exhibit 3B, it will take an estimated 237 MRTs to meet mission requirements and approximately 20% are MRT Level 4s. Since it takes 4 years to achieve MRT Level 4, the Government estimates that the turnover vacancy time would average 60-90 days per position. Should there be a high MRT turnover rate as a result of the lower position classification, it would in turn directly lead to class cancellations and mission failure. Overall, the Offeror's proposed labor mix appreciably increases the risk of unsuccessful task order performance.

Id.

SAIC argues that the agency's evaluation was based on an unstated evaluation criterion. In this regard, the protester contends that the agency did not disclose to offerors that the MRT-PE level 4 position was required to be a senior-level instructor. Protest at 18-30.

Offerors must be provided a common basis for the preparation of their proposals. CenturyLink QGS, B-408384, Aug. 27, 2013, 2013 CPD ¶ 217 at 8. Contracting officials may not announce in the solicitation that they will use one evaluation scheme and then

follow another without informing offerors of the changed plan and providing them an opportunity to submit proposals on that basis. Applied Research Solutions, B-414719, Aug. 28, 2017, 2107 CPD ¶ 276 at 5-6; Fintrac, Inc., B-311462.2, B-311462.3, Oct. 14, 2008, 2008 CPD ¶ 191 at 6. An agency may, however, take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. Independence Constr., Inc., B-292052, May 19, 2003, 2003 CPD ¶ 105 at 4.

In response to the protest, the Army states that it did not apply an unstated evaluation criterion that required offerors to propose the senior-level instructor labor category for MRT-PE level 4. COS/MOL at 12, 27. Instead, offerors were allowed to propose any labor category, provided they explained the basis for doing so. See id. The agency concluded that SAIC's proposal did not adequately explain the basis for staffing the MRT-PE level 4 position with the mid-level instructor labor category. AR, Tab 11, SAIC Technical Evaluation, at 2-3. In the absence of such an explanation, the agency concluded that mid-level instructor labor category did not align with the PWS requirements MRT-PE level 4 position in terms of education and experience. COS/MOL at 12-13. The agency therefore found that the failure to align the PWS requirement to the appropriate IDIQ labor category "increases the risk of turnover," and that in the event of such turnover, "the lower position classification . . . would in turn directly lead to class cancellations and mission failure." AR, Tab 11, SAIC Technical Evaluation, at 3.

We agree with the Army that the evaluation of SAIC's proposal was not based on unstated criteria. As discussed above, the PWS advised offerors of the requirements for the MRT-PE position and further explained that all MRT course levels require a "primary instructor who has graduated from MRT level 4 training." PWS at 25-26. The RFP required offerors to explain their staffing approach, including the "methodology/rationale for determining labor mix, and use of junior, mid-level, and senior resources." AR, Tab 5h, Amended Basis for Award, at 3. Offerors were also instructed to ensure that the proposed labor categories "correlate to those identified in the IDIQ base contract." Id. The IDIQ contract labor categories stated that the mid-level instructor labor category requires 3-9 years of experience and at least a bachelor's degree, whereas the senior-level instructor labor category requires 10 years of experience and at least a master's degree. AR, Tab 23, IDIQ Contract Labor Categories, at 1, 10. Thus, although the RFP did not specifically require offerors to propose staffing the MRT-PE level 4 position with the senior-level instructor labor category, we think the agency reasonably evaluated whether the IDIQ contract labor categories proposed aligned with the PWS requirements.

Next, SAIC argues that even if the Army's evaluation was not based on unstated evaluation criteria, its proposal provided a sufficient explanation for proposing to staff the MRT-PE level 4 position with the mid-level instructor labor category. Protester's Comments, Oct. 28, 2019, at 5-7. For example, the protester's proposal explains that its "Methodology/Rationale for Determining Labor Mix" involves:

(1) Assessing the specific labor mix of skills required to perform the work described in each PWS area. (2) Estimating the volume of training at designated sites (i.e., expected percentage of work required for each PWS area). (3) Assessing the result against risks specific to this PWS as identified through several years of performance executing this type of work for the [Department of Defense]. (4) Using SAIC's [Defense Contract Audit Agency]-approved Cost Estimating System to apply both directed and expert opinion analysis to validate using the Government-provided anticipated labor mix as our labor mix.

AR, Tab 9, SAIC Technical Proposal, at I-11.

The Army contends that SAIC's proposal explained its basis for selecting labor categories only in general terms, and did not specifically explain the protester's rationale for staffing the MRT-PE level 4 position. COS/MOL at 25, 27. Based on our review of the record, we think the agency reasonably found that the protester's proposal did not specifically address its rationale for assigning the mid-level instructor category for the MRT-PE level position 4.<sup>7</sup> We also think, for the reasons discussed above, that the agency reasonably concluded that the MRT-PE level 4 position did not align with the mid-level labor category. See AR, Tab 11, SAIC Technical Evaluation, at 2-3. On this record, we find no basis to sustain the protest.

### Unequal Treatment

Next, SAIC argues that even if the Army reasonably assigned a significant weakness to its proposal based on the approach of staffing the MRT-PE level 4 position with personnel under the mid-level instructor labor category, the awardee's proposal also did

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<sup>7</sup> SAIC notes that although the Army found that its proposal did not explain the basis for staffing MRT-PE level 4 positions with the mid-level instructor labor category, the agency did not assign significant weaknesses based on the proposal of the mid-level category for the level 1-3 positions. Protester's Comments, Oct. 28, 2019, at 4-5. For example, while the mid-level instructor labor category requires only a bachelor's degree, the PWS requires personnel for all four levels of MRT-PE positions to have master's degrees. The protester contends that, to the extent the agency did not also assign significant weaknesses based on the other MRT-PE positions, the evaluation was inconsistent and therefore unreasonable. Even if the agency arguably relaxed the PWS requirements by not also assessing significant weaknesses in connection with the level 1-3 positions, we do not agree with the protester that this demonstrates that the agency's evaluation of the MRT-PE level 4 position was unreasonable or that the protester was in any way prejudiced by the evaluation. See DRS ICAS, LLC, B-401852.4, B-401852.5, Sept. 8, 2010, 2010 CPD ¶ 261 at 21 (competitive prejudice is an essential element of a viable protest, and we will sustain a protest only where the protester demonstrates that, but for the agency's improper actions, it would have had a substantial chance of receiving the award).

not explain its basis for choosing a labor category for this position. AFSC proposed to staff all MRT-PE instructors, levels 1-4, with individuals under the senior-level labor category. AR, Tab 12, AFSC Technical Proposal, App. B. As discussed above, this labor category requires a minimum of 10 years of experience and a master's degree. AR, Tab 23, IDIQ Contract Labor Categories, at 1, 10. The protester contends, however, that the awardee's proposal did not explain the decision to staff the MRT-PE level 4 position in any more detail than the protester's proposal. For this reason, the protester contends that the agency evaluated the offerors in an unequal manner.

It is a fundamental principle of federal procurement law that a contracting agency must treat all offerors equally and evaluate their proposals evenhandedly against the solicitation's requirements and evaluation criteria. Booz Allen Hamilton, Inc., B-417418 et al., July 3, 2019, 2019 CPD ¶ 246 at 6. Where a protester alleges that an evaluation is the product of unequal treatment, however, the protester must show that the difference in the evaluation result was, in fact, the result of unequal treatment, rather than differences in the offerors' proposals. Beretta USA Corp., B-406376.2, B-406376.3, July 12, 2013, 2013 CPD ¶ 186 at 6; Northrop Grumman Sys. Corp., B-406411, B-406411.2, May 25, 2012, 2012 CPD ¶ 164 at 8.

The Army contends that the evaluation was not unequal because the offerors were not similarly situated with regard to how they proposed to staff the MRT-PE level 4 position. The agency does not specifically dispute that there is no detailed rationale for assigning labor categories in the awardee's proposal. See Supp. COS/MOL, Nov. 6, 2019, at 3; Decl. of Contracting Officer, Nov. 5, 2019, at 2. The agency nonetheless states that it was satisfied with the detail provided by AFSC because the awardee proposed the senior-level instructor labor category--which clearly met the requirements for the MRT-PE positions--without need for further explanation. See id.

SAIC is correct that the Army required the protester to provide more information to justify the proposal labor category, that did not meet the PWS requirements on its face, as compared to the awardee, which proposed a labor category that met the PWS requirements.<sup>8</sup> The agency explains, in essence, that it had confidence in the awardee's proposed approach of staffing all MRT-PE positions with the labor category with the highest level of qualifications. See Supp. COS/MOL, Nov. 6, 2019, at 2-3; Decl. of Contracting Officer, Nov. 5, 2019, at 2. In contrast, the protester proposed a labor category with a lower level of qualifications that the agency found did not clearly align with the requirements for the MRT-PE level 4 position. See AR, Tab 11, SAIC Technical Evaluation, at App. B.

As discussed above, we conclude that the agency reasonably evaluated whether the offerors' proposed IDIQ labor categories aligned with the PWS requirements for the MRT-PE level 4 position. Thus, in light of the qualitatively different approaches taken by

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<sup>8</sup> The protester does not allege that the senior-level category failed to meet or align with the PWS requirements for the MRT-PE level 4 position.



each offeror, we find no basis to conclude that the agency treated the offerors in an unequal manner with regard to the explanations set forth in their respective proposals regarding the assignment of labor categories. See Beretta USA Corp., supra; Northrop Grumman Sys. Corp., supra. We therefore find no basis to sustain the protest.

The protest is denied.

Thomas H. Armstrong  
General Counsel