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Decision

Matter of: World Wide Technology, Inc.

File: B-417909.2; B-417909.3

Date: December 14, 2020

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Daniel C. McIntosh, Esq., and Michelle Sabin, Esq., Defense Information Systems Agency, for the agency.

Charmaine A. Stevenson, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency's discussions were not meaningful because the agency did not inform the protester that its price was unreasonably high is denied where the record shows that the agency concluded the protester's price was reasonable.
 2. Protest that agency's discussions misled the protester to change its technical solution in a manner that needlessly increased its price is denied where the record shows that the agency repeatedly raised its legitimate concerns regarding an aspect of the protester's proposed technical solution.
 3. Protest alleging that the disparities between the offerors' proposed prices and the government's estimate show that the offerors were not competing on a common basis is denied where the protester does not identify any solicitation provisions which are vague or misleading.
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DECISION

World Wide Technology, LLC (WWT), of St. Louis, Missouri, protests the award of a contract to Hewlett Packard Enterprise Company (HPE), of Reston, Virginia, under request for proposals (RFP) No. HC1084-18-R-0001, issued by the Defense Information Systems Agency (DISA), for enterprise storage solution services. The protester contends that the agency's discussions were misleading and not meaningful. The

protester further contends that the solicitation failed to provide a common basis for competition, and the source selection decision is flawed.

We deny the protest.

BACKGROUND

On October 18, 2018, the agency issued the RFP using Federal Acquisition Regulation (FAR) part 15 procedures for award of a fixed-price, indefinite-delivery indefinite-quantity contract. Agency Report (AR), Tab 2AH, RFP at 1, 33.¹ The RFP contemplated a period of performance consisting of a 5-year base period and five 1-year option periods, with a total maximum contract value of \$639,602,000. *Id.* at 3-8. The performance work statement (PWS) states: “The objective of this contract is to obtain reliable, responsive, cost-effective managed services and on-demand storage capabilities for Government-approved locations [] in the continental United States (CONUS) and outside of the continental United States (OCONUS).” RFP attach. C-1, PWS at 1.

The RFP advised that proposals would be evaluated on the basis of the following factors: (1) technical/management, (2) past performance, (3) cost/price, (4) supply chain risk management plan, and (5) small business management. RFP attach. M-1, Evaluation Factors for Award at § M.2.0. The technical/management factor included two evaluation phases, and only proposals that received an acceptable rating for phase one would be further evaluated for award. *Id.*

Phase two of the technical/management factor included the following subfactors: (1) unclassified CONUS Datacenter A operational storage environment task order; (2) unclassified CONUS Datacenter A backup storage environment task order; (3) unclassified CONUS Datacenter A growth task order; (4) analytics; and (5) unclassified CONUS Datacenter A network attached storage (NAS)/object storage task order. *Id.* This fifth subfactor and all other non-cost/price factors were to be rated as acceptable or unacceptable. *Id.* The other four technical/management subfactors would be assigned ratings, based on an assessment of the strengths and weaknesses identified in proposals, as follows: outstanding, good, acceptable, marginal, and unacceptable. *Id.* at § M.2.1.1.2.

The RFP stated that the basis for contract award would be a best-value tradeoff source selection. *Id.* at § M.1.1.2. Within the technical/management factor, all subfactors were of equal importance. *Id.* at § M.2.0. As between all of the non-cost/price factors, small business management was less important than the remaining three factors, which were of equal importance. *Id.* When combined, all non-cost/price factors were of equal importance to the cost/price factor. *Id.*

¹ The RFP was amended 33 times. All citations to the RFP are to the conformed final version issued in solicitation amendment 33.

The agency received six proposals in response to the solicitation. AR, Tab 8, Source Selection Decision Document (SSDD) at 22. During the phase two evaluation, the agency established a competitive range, which included WWT and HPE, and engaged in multiple rounds of discussions. *Id.* In its final evaluation of WWT's proposal, the agency identified two strengths under the unclassified CONUS Datacenter A operational storage environment task order subfactor; no other strengths or weaknesses were identified under the remaining subfactors. AR, Tab 7, Selection Recommendation Document at 20-21. In the end, the final evaluation results for WWT and HPE were as follows:

	WWT	HPE
Technical/Management Phase One	Acceptable	Acceptable
Technical/Management Phase Two		
Unclassified CONUS Datacenter A Operational Storage Environment Task Order	Outstanding	Acceptable
Unclassified CONUS Datacenter A Backup Storage Environment Task Order	Acceptable	Acceptable
Unclassified CONUS Datacenter A Growth Task Order	Acceptable	Acceptable
Analytics	Acceptable	Acceptable
Unclassified CONUS Datacenter A NAS/Object Storage Task Order	Acceptable	Acceptable
Past Performance	Acceptable	Acceptable
Supply Chain Risk Management Plan	Acceptable	Acceptable
Small Business Management	Acceptable	Acceptable
Total Evaluated Price	\$226,624,800	\$79,452,483

Id. at 2, 32.

On September 3, 2020, the agency notified WWT that HPE had been selected for award. AR, Tab 11A, WWT Unsuccessful Offeror Letter. The agency provided WWT with a debriefing, and this protest followed.

DISCUSSION

The protester contends that the agency's discussions were misleading and not meaningful, and failed to improve WWT's chances of receiving award. The protester further contends that the solicitation failed to provide a common basis for competition, as evidenced by the significant disparities between the offerors' proposed prices and the government's estimate, and also argues that the source selection decision is flawed. Although we do not specifically address all of WWT's arguments, we have fully

considered all of them and find that they afford no basis on which to sustain the protest.²

Discussions with WWT

The protester argues that the agency's discussions with WWT were not meaningful, and were additionally misleading. Specifically, the protester argues that discussions were not meaningful because the agency failed to inform WWT that its proposed price was unreasonably high. Protest at 13-16. WWT further argues that the agency's discussions were misleading because the agency repeatedly expressed unwarranted concerns regarding its proposed solution that caused it to change the solution, resulting in a corresponding \$15 million increase to its proposed price. *Id.* at 16-18. The agency argues that its discussions were meaningful and not misleading, and during discussions WWT resolved the agency's legitimate concerns about its solution, and overall decreased its proposed price by almost \$400 million. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 33-46.

When an agency engages in discussions with an offeror, the discussions must be meaningful and enhance the offeror's potential for receiving the award. FAR 15.306(d); *InfoPro, Inc.*, B-408642.2, B-408642.3, Dec. 23, 2014, 2015 CPD ¶ 59 at 6. Agencies have broad discretion to determine the content and extent of discussions, and we limit our review of the agency's judgments in this area to a determination of whether they are reasonable. *Id.*

Here, the record shows that between October 2019, and June 2020, the agency sent six discussion letters to WWT that provided evaluation notices regarding WWT's technical/management and price proposals. AR, Tabs 5A-5F, WWT Discussion Letters. WWT's initial proposed price was \$615,666,219, and its final proposed price was \$226,624,799. AR, Tab 3A4, WWT Initial Price Proposal; Tab 3K7, WWT Final

² For example, the protester argues that HPE's low price reveals that its proposed technical solution was unacceptable. WWT argues that the agency unreasonably failed to require a proof of concept (POC) demonstration of the technical solution, and "[i]n the absence of a POC demonstration, DISA had no way to verify HPE's approach, relying instead, unreasonably, on HPE's self-certification in its Sample Task Orders." Protest at 25-26. Here, the RFP stated that the agency "reserve[d] the right to require a POC demonstration" to validate an offeror's technical solution "if the contracting officer determines it is in the Government's best interest." RFP attach. M-1, Evaluation Factors for Award at § M.2.1.1.4. The RFP further stated that the agency would evaluate price proposals to determine if they were reasonable and complete; the solicitation did not state the agency would evaluate for realism. *Id.* at § M.2.3.1. We dismiss the allegation that the agency should have held a POC demonstration due to WWT's low prices, even when the solicitation did not require a demonstration. We find this allegation to be a price realism challenge, which as noted above, has no basis in the terms of the solicitation. Accordingly the protester has failed to state a valid basis for protest. 4 C.F.R. §§ 21.1(c)(4), (f); § 21.5(f).

Proposal Revision (FPR) Price Proposal. None of the evaluation notices regarding WWT's price proposal advised WWT that the agency believed its proposed price was unreasonably high. See AR, Tab 6B, Final Price Report at 6-10. Rather, in its final evaluation, the agency concluded as follows:

Adequate price competition was achieved for this solicitation[,] and based on a comparison of the proposed prices received in response to the solicitation[,] the Government considers WWT's proposed pricing to be reasonable. WWT's total evaluated price of \$226,624,799.61 is the [third] lowest priced of the four proposals included in the Competitive Range. Compared to the average total evaluated price of all other offerors, WWT's total evaluated price is 8% higher, and they are 38% lower than the next lowest priced offeror [].

Id. at 5. In addition, the agency concluded WWT's price was reasonable because it compared favorably to the independent government cost estimate (IGCE), specifically, that WWT's final proposed price was 73 percent below the \$833,221,317 IGCE. *Id.* The agency also concluded that WWT's price was balanced and complete. *Id.* at 5-6.

Although the protester argues that the agency should have raised in discussions with WWT that its price was unreasonably high, WWT has not provided a basis for our Office to sustain the protest on this issue. Unless an offeror's proposed price is high so as to be unreasonable or unacceptable, an agency is not required to inform an offeror during discussions that its proposed price is high in comparison to a competitor's proposed price, even where price is the determinative factor for award. *DeTekion Sec. Sys., Inc.*, B-298235, B-298235.2, July 31, 2006, 2006 CPD ¶ 130 at 15. Here, since the agency did not conclude that WWT's price was so high as to be unreasonable or unacceptable, the agency was not obligated to tell WWT that its proposed price was high in relation to other offerors during discussions with the firm.³

³ The protester also argues that DISA's price discussions relied on a flawed and unreasonable IGCE, which prevented DISA from advising WWT that its price was unreasonably high. Comments & Supp. Protest at 9-11. The agency argues that the IGCE was based on market research and historical data, namely WWT's incumbent contract prices that the agency currently pays. Supp. COS/MOL at 12-19. As discussed, the record shows that the agency concluded WWT's price was reasonable based on adequate price competition in the procurement. Accordingly, we find that WWT could not have been harmed by any alleged flaws in the IGCE. Where, as here, the agency uses another price analysis technique to determine price reasonableness, there is no basis to sustain the protest. *AMTIS-Advantage, LLC*, B-411623, B-411623.2, Sept. 16, 2015, 2015 CPD ¶ 360 at 11 (even if IGCE was flawed, there was no competitive prejudice where agency also used other price analysis techniques to determine price reasonableness).

With respect to WWT's technical/management proposal, the record shows that the agency identified a weakness in WWT's initial proposal related to its storage area network (SAN) switching solution because it would "[add] a layer of complexity to the SAN fabric that increases risk to operations and migration timelines."⁴ AR, Tab 6A, FPR Technical Report at 22. In response, WWT identified two potential options to address the agency's concern, recommending the second option as the original equipment manufacturer (OEM) best practice; however, the agency concluded that this response did not resolve its concerns. *Id.* at 22-23. Again in a second round of discussions, the agency identified as a weakness in WWT's proposed SAN switching solution the added complexity of using different hardware, and further questioned whether the proposed solution would integrate the two switching environments during the migration from the old to the new environment. *Id.* at 13-14. In its response, WWT stated that its proposed solution had been "validated, tested, approved and is supported" and would "be configured to prevent any impact." *Id.* at 14. The record indicates that the agency concluded "[t]his response resolves [the weakness]." *Id.*

Yet, in a third round of discussions, the agency again identified a weakness relating to WWT's SAN switching solution, specifically finding that WWT's proposed solution was not the recommended OEM best practice and again concluding that the proposed solution would "add layers of complexity to the SAN fabric migrations that increases risk to operations and migration timelines." *Id.* at 12. In response, WWT revised its proposal and substituted its initially proposed SAN switching solution with a solution compatible with the agency's existing hardware, resolving the agency's concerns and eliminating the weakness in its proposal. *Id.* at 12-13.

⁴ With respect to this weakness, the agency explains as follows:

The Government presently uses a Brocade network switch solution and WWT proposed using a Cisco network switch "fabric" solution that would connect to the Agency's Brocade network which created concerns regarding compatibility between the two different types of hardware. Tab 3K1, Vol II Technical Proposal, page 24. This is analogous to a consumer who migrates from an Android to an Apple cellular phone [and] might have concerns over how the [iPhone operating system] Apple software will be compatible with the Android to ensure that their data from the Android device transfers successfully to the Apple device. [Evaluation Notices] TECH-MGMT 2.46, 2.52, 2.59, 2.60, and 2.61 reflects these concerns.

AR, Tab 13, Decl. of Technical/Management Evaluation Team Lead at 1. The agency further explains that WWT's proposed interoperability settings for its solution were not the default setting on the Cisco hardware and could result in degradation of the functionality between the Cisco switches and the existing Brocade switches. *Id.* at 3. In addition, the agency explained that software and configuration updates to the Brocade devices or updates to the Cisco operating software would require the switches to be manually checked and updated to ensure compatibility and functionality, thereby increasing performance risk. *Id.*

The protester argues that “[i]n response to the agency’s continued campaign against its Cisco solution, WWT eventually relented by replacing its solution with a far more expensive Brocade SAN switching solution and Analytics solution . . . resulting in an increase of nearly \$15 million to its total proposed price.” Protest at 17. As previously noted, when discussions are conducted, they must be meaningful, and an agency may not mislead an offeror--through the framing of a discussion question or a response to a question--into responding in a manner that does not address the agency’s concerns, or misinform the offeror concerning a problem with its proposal or about the government’s requirements. *Perspecta Enter. Sols., LLC*, B-418533.2, B-418533.3, June 17, 2020, 2020 CPD ¶ 213 at 23-24. While an agency may not, in conducting discussions, coerce an offeror into raising its prices or altering any other aspect of its proposal, we will not find coercion in discussions where, as here, an agency in good faith provides accurate information to an offeror and leaves it to the offeror’s discretion regarding how to respond. *Id.* at 24; see also *Serco Inc.*, B-407797.3, B-407797.4, Nov. 8, 2013, 2013 CPD ¶ 264 at 5-6 (finding agency’s discussions are not coercive where the offeror chose to change, though not completely abandon, an aspect of its staffing approach found by the agency to be a weakness).

We find that the agency’s discussions with WWT were not misleading. As described above, the record demonstrates that during discussions, the protester’s responses to the agency did not alleviate the agency’s legitimate concerns regarding performance risk created by WWT’s proposed SAN switching solution. The agency did not direct WWT to change its proposed solution; instead, WWT made an independent business decision about how to respond to the agency’s concerns, first seeking to assuage them with additional information but ultimately choosing to revise its proposal. Further, as noted, WWT reduced its total proposed price by almost \$400 million over the course of discussions, despite its allegation that the change in its proposed SAN switching solution increased its proposed costs. Based on our review of the record, we find nothing misleading in the agency’s discussions with WWT, and no basis to sustain this protest allegation.

Common Basis for Competition and Source Selection

The protester argues that the enormous disparities between offerors’ proposed prices and the IGCE, and in particular, the fact that the IGCE is 949 percent higher than HPE’s price, indicate that the RFP failed to provide a common basis for competition. Comments & Supp. Protest at 1, 3-9. The protester further contends that the source selection decision is flawed because the agency failed to evaluate offerors on an equal basis. *Id.* at 11; see also Protest at 28-29.

As a general rule, a solicitation must be drafted in a fashion that enables offerors to intelligently prepare their proposals in a manner that allows offerors to compete on a common basis. *Raymond Express Int’l*, B-409872.2, Nov. 6, 2014, 2014 CPD ¶ 317 at 9. The agency’s description of its needs must be free from ambiguity and describe the agency’s minimum needs accurately. *Global Tech. Sys.*, B-411230.2, Sept. 9, 2015, 2015 CPD ¶ 335 at 19. An ambiguity exists where two or more reasonable

interpretations of the terms or specifications of the solicitation are possible. *Bastion Techs., Inc.*, B-418432, May 5, 2020, 2020 CPD ¶ 163 at 5.

WWT contends that the differences between the offerors' prices and the IGCE show that offerors did not have a common understanding of the solicitation requirements. The protester, however, does not identify any specific parts of the RFP which it contends are vague or ambiguous, or that otherwise prevented offerors from competing on a common basis. Although WWT identifies multiple subline item numbers that account for the largest of the disparities in pricing, the protester fails to offer any differing yet reasonable interpretations of the requirements to demonstrate that any ambiguity exists in the RFP. On this record, we find no basis to conclude that the RFP failed to provide a common basis for offerors to compete or was otherwise defective. See *Centerra Grp., LLC*, B-414768, B-414768.2, Sept. 11, 2017, 2017 CPD ¶ 284 at 6 (alleged differences in price, alone, do not establish that offerors had differing understandings of a solicitation or that the solicitation failed to provide a common basis for competition).

Further, as discussed, the record here shows that the agency received six proposals in response to the solicitation, and opened discussions on phase two of the procurement with four competitive range offerors, including WWT, in October 2019. AR, Tab 8, SSDD at 22. During these discussions, most of which are unchallenged by WWT aside from the two allegations discussed above, the agency issued 46 evaluation notices to WWT, providing several opportunities for WWT to improve its proposal. COS/MOL at 19; see generally AR, Tab 4, WWT Evaluation Notices. The final evaluation of WWT resulted in the agency rating WWT as outstanding under the unclassified CONUS Datacenter A operational storage environment task order subfactor, based on two strengths identified by the evaluators in its technical solution, and ratings of acceptable in all other factors and subfactors. AR, Tab 7, Selection Recommendation Document at 20-23. WWT's price was also determined to be reasonable. *Id.* at 30. However, based on an integrated assessment of all the evaluation results, the evaluators recommended that award be made to HPE. *Id.* at 30-33.

Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results; cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the solicitation's evaluation criteria. *Olgoonik Global Security, LLC*, B-414762, B-414762.2, Sept. 8, 2017, 2017 CPD ¶ 282 at 4. Based on our review of the record, we find no merit to any of the allegations raised by the protester and thus, no basis upon which to sustain the protest. Further, the source selection authority (SSA) agreed with the evaluators that WWT and all of the other offerors' proposals presented technical advantages when compared to HPE's proposal, however, none were deemed by the SSA to be worth the price premium. AR, Tab 8, SSDD at 85-86. Specifically, as relates to WWT's proposal, the SSA stated as follows:

When comparing WWT's proposal to HPE's proposal, WWT's solution offered two strengths However, the overall price of the WWT proposal outweighs any potential value from these strengths as compared to HPE's solution. Therefore, I determined that the strengths WWT received for [the unclassified CONUS Datacenter A operational storage environment task order subfactor] did not provide substantial value to the Government that would significantly reduce or eliminate the premium price of the WWT solution which is more than [\$147 million] over the price of the HPE solution.

Id. at 86. On this record, we find the source selection decision to be reasonable.⁵

The protest is denied.

Thomas H. Armstrong
General Counsel

⁵ WWT also argues that the agency failed to identify multiple strengths in addition to the two strengths it received for its technical/management approach that should have resulted in ratings of outstanding for all of the adjectivally-rated phase two subfactors. Protest at 19-25. We do not find that the agency erred in its evaluation. For example, WWT argues that it should have received five strengths and an outstanding rating under the unclassified CONUS Datacenter A backup storage environment task order subfactor. Protest at 19-21. WWT argues that its proposed [DELETED] solution far exceeded the solicitation's requirements and its proposed use of [DELETED], which is currently used by the government, will make transition low risk and exceeds the required sample call order quantity of virtual drives. *Id.*

The agency provided a detailed response concerning each alleged strength and explained that its evaluation was reasonable because this subfactor concerns the backup solution and did not require any of the additional features claimed by WWT. COS/MOL at 47-55. The RFP defined a strength as "an aspect of an offeror's proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the Government during contract performance." RFP attach. M-1 at Table M.3. The agency did not find these claimed strengths to be advantageous to the government. COS/MOL at 51-54; AR, Tab 13, Decl. of Technical/Management Evaluation Team Lead at 7-11. While WWT disagrees with the agency's judgements here, the protester's disagreement, without more, fails to show that the evaluation was unreasonable or otherwise inconsistent with the RFP, and provides no basis to sustain the protest. See *Heartland Energy Partners, LLC*, B-415741, Mar. 1, 2018, 2018 CPD ¶ 306 at 8.