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Decision

Matter of: Calhoun International, LLC

File: B-421047

Date: November 14, 2022

John S. Vento, Esq., and Gregg E. Hutt, Esq., Trenam Law, for the protester. Antonio R. Franco, Esq., Katherine B. Burrows, Esq., Lauren R. Brier, Esq., and Patrick T. Rothwell, Esq., PilieroMazza PLLC, for Preting LLC, an intervenor. Captain Natalie W. McKiernan, Lieutenant Colonel Seth B. Ritzman, Captain Dmitrius McGruder, and Andrew J. Smith, Esq., Department of the Army, for the agency. Louis A. Chiarella, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency’s evaluation of protester’s technical proposal was improper is denied where the protester fails to establish it was competitively prejudiced by the alleged evaluation error.

DECISION

Calhoun International, LLC, of Tampa, Florida, protests the issuance of a task order to Preting LLC, of Springfield, Virginia, under request for task order proposals (RTOP) No. W50NH9-21-R-1AOG, issued by the Department of the Army for human intelligence (HUMINT) operations support services for the United States Army Operations Group (AOG). Calhoun contends that the evaluation of its proposal and resulting award decision were improper.

We deny the protest.

BACKGROUND

The AOG conducts HUMINT operations worldwide in support of the Army’s HUMINT requirements: it supports commanders from the tactical to strategic and Army levels, including units involved in combat operations worldwide. Agency Report (AR), Tab 6, RTOP amend. 1, attach. 7, Performance Work Statement (PWS) at 1-2. The purpose of the PWS here is to obtain HUMINT operational support for AOG, including in the areas

of target development, collection and source management operations, analytical operations, training, and other related support services. *Id.* at 2.

The RTOP was issued on March 1, 2022, to small-business holders of the Defense Intelligence Agency's Solutions for Intelligence Analysis 3 (SIA 3) indefinite-delivery, indefinite quantity (IDIQ) contract, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 16.5. AR, Tab 5, RTOP amend. 1 at 1; Contracting Officer's Statement (COS) at 1-2. The solicitation contemplated the issuance of a cost-plus-fixed-fee task order for a base year with four 1-year options. RTOP amend 1. at 3. In general terms, the solicitation requires the contractor to provide 78,720 hours annually (or 41 full-time equivalent employees) in specified labor categories in HUMINT operations support.¹ *Id.* at 31; attach. 7, PWS at 6.

The RTOP established that task order award was to be made on a best-value tradeoff basis, considering the following two evaluation factors: staffing and transition plan; and cost/price (cost). RTOP amend. 1 at 51, 53. The staffing and transition plan factor was comprised of two subfactors in descending order of importance: staffing plan, and transition plan. *Id.* at 53. While each subfactor would be evaluated and assigned an individual rating; the agency would also derive an overall adjectival rating for the factor based on the assessment of the two subfactors. According to the RTOP, the staffing and transition plan factor was significantly more important than the cost factor. *Id.*

Four offerors, including Preting and the incumbent Calhoun, submitted timely proposals by the RTOP's April 14 closing date. COS at 3. An Army source selection evaluation board (SSEB) evaluated offerors' technical proposals using an adjectival rating scheme with available ratings of: outstanding, good, acceptable, marginal, or unacceptable. RTOP amend. 1 at 53-54. A separate cost evaluation team assessed offerors' cost proposals for reasonableness, realism, completeness, and balance. *Id.* at 55. The SSEB completed its evaluation on June 13, with the final evaluation ratings and evaluated costs of the Preting and Calhoun proposals as follows:

	Preting	Calhoun
Staffing and Transition Plan	Outstanding	Good
Staffing Plan	Outstanding	Good
Transition Plan	Good	Good
Evaluated Cost	\$51,060,246	\$51,115,852

AR, Tab 10, Source Selection Decision Document (SSDD), Sept. 15, 2022, at 4.

The evaluators also identified strengths and weakness in the offerors' proposals in support of the assigned ratings. For example, under the staffing plan subfactor, the

¹ The RTOP included government-established minimum direct labor rates--referred to as "floor rates"--for each labor category that offerors were required to adhere to as part of their proposal submissions. *Id.* at 42, 44.

SSEB found four strengths and no weaknesses in Preting's proposal and assigned it a rating of "outstanding." Under the same subfactor, the SSEB found three strengths and one weakness in Calhoun's proposal and assigned it a rating of "good." AR, Tab 8, SSEB Evaluation Report at 3-7; Tab 10, SSDD, Sept. 15, 2022, at 6-9.

On August 11, the source selection authority (SSA) received and reviewed the evaluation results. AR, Tab 10, SSDD, Sept. 15, 2022, at 1. The SSA determined that Preting's proposal was technically superior to Calhoun's under the staffing plan subfactor; the two offerors were essentially equal under the transition plan subfactor; and that Preting was lower-cost than Calhoun. *Id.* at 8-9. Having determined that Preting's proposal was both technically superior to, and lower cost than, Calhoun's proposal, the SSA concluded that Preting represented the overall best value to the Army. *Id.* at 1, 8, 16-18.

On September 12, after receipt of notice of award to Preting and a debriefing, Calhoun filed its protest with our Office.²

DISCUSSION

Calhoun challenges the evaluation of its proposal under the staffing and transition plan factor. Specifically, the protester alleges the one weakness assigned under the staffing plan subfactor was improper.³ Protest at 5-11. Had the Army properly evaluated its technical proposal, Calhoun argues, it would have been selected for award.⁴ Protest

² Because the value of the task order issued here is in excess of \$25 million, this procurement is within our jurisdiction to hear protests related to the issuance of orders under IDIQ contracts established pursuant to the authority in title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B).

³ Calhoun also protested that it should have been awarded a strength under the staffing plan subfactor for proposing incumbent personnel by name for the various labor categories. Protest at 6-7. The agency report addressed why Calhoun's named incumbent personnel was determined not to be a strength. Memorandum of Law (MOL) at 11-12, COS at 9-10. In its comments to the agency report, Calhoun did not reply to the agency's substantive response or further pursue the protest issue. Comments, *passim*. We therefore consider this argument to be abandoned and we will not consider it further. 4 C.F.R. § 21.3(i)(3); *WorldWide Language Res., Inc.*, B-418767.5, July 12, 2022, 2022 CPD ¶ 180 at 5 n.7.

⁴ The protester also challenged the evaluation of Preting's proposal under the staffing plan subfactor because, according to Calhoun, the agency improperly considered a unique and undisclosed (to the protester) feature of the awardee's proposal. Specifically, Calhoun alleges:

While it is unknown what Preting proposed that was determined to be "unique," it was apparently significant enough to give Preting an

at 11. As detailed below, we deny the protest because Calhoun cannot show that it was competitively prejudiced by the alleged errors in the agency's evaluation of its quotation.

As stated above, the task order competition here was conducted pursuant to FAR subpart 16.5. The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the contracting agency's discretion, because the agency is responsible for defining its needs and the best method of accommodating them. *CSRA LLC*, B-417635 *et al.*, Sept. 11, 2019, 2019 CPD ¶ 341 at 9. In reviewing protests challenging the evaluation of an offeror's proposal, it is not our role to reevaluate proposals; rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accordance with the solicitation's evaluation criteria and applicable procurement statutes and regulations. *Mission Essential, LLC*, B-418767, Aug. 31, 2020, 2020 CPD ¶ 281 at 5; *Distributed Sols., Inc.*, B-416394, Aug. 13, 2018, 2018 CPD ¶ 279 at 4. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish an agency acted unreasonably. *CSRA LLC, supra*.

The RTOP established that, with regard to the staffing plan subfactor, the agency would evaluate the offeror's staffing plan for the HUMINT targeting specialist, and collections operations manager (COM), labor categories, including the offeror's processes and specific screening actions to recruit, vet, and staff personnel meeting the required labor category qualifications. RTOP amend. 1 at 54. The SSEB, in addition to assessing three strengths, identified one weakness in Calhoun's staffing plan. AR, Tab 8, SSEB Evaluation Report at 4-7. Specifically, the evaluators found that although Calhoun had identified "bench" candidates (*i.e.*, a pool of available personnel to fill vacancies) for the HUMINT targeting specialist positions:

outstanding rating. Because it was significant enough, and obviously not authorized by or a requirement of the RTOP, or it would have been identified, . . . [t]he consideration of Preting's "unique and additional" submission was clearly arbitrary.

Protest at 11-12. Before the submission of the agency report, we dismissed this protest ground as failing to state a factually and legally sufficient ground of protest. Our Bid Protest Regulations require that a protest include a sufficiently detailed statement of the grounds supporting the protest allegations, 4 C.F.R. §§ 21.1(c)(4), 21.1(f), 21.5(f); bare allegations or speculation are insufficient to meet this requirement. *Saalex Sols., Inc.*, B-418729.3, July 23, 2021, 2021 CPD ¶ 298 at 5; *Ahtna Facility Servs., Inc.*, B-404913, B-404913.2, June 30, 2011, 2011 CPD ¶ 134 at 11. Calhoun's assertion of improper agency action, based solely on the Army's nondisclosure of a unique (and proprietary) aspect of the awardee's proposal to Calhoun as part of the post-award debriefing--and without any supporting explanation or documentation--failed to satisfy the requirements of our regulations. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 3-4; *Mark Dunning Indus., Inc.*, B-413321.2, B-413321.3, Mar. 2, 2017, 2017 CPD ¶ 84 at 2.

the Offeror did not indicate that it has any bench candidates for the COM positions, which could lead to interruptions in support, and this is determined to be a WEAKNESS, because in the event one or all incumbents decide not to remain, having no bench candidates for the COM positions could potentially limit AOG's ability to conduct its mission successfully.

Id. at 6-7; *see also* Tab 10, SSDD, Sept. 15, 2022, at 7.

The record also reflects that, in contrast to Calhoun's lack of identified bench candidates for the COM positions, Preting's staffing plan was assigned a strength for proposing to maintain a qualified bench of candidates for both the HUMINT targeting specialist and COM positions in excess of the RTOP's staffing requirements, including ones that would possess counterintelligence (CI) polygraph security clearances. AR, Tab 10, SSDD, Sept. 15, 2022, at 9. The SSA subsequently found Preting's staffing plan to be more advantageous than that of Calhoun based on the identified bench of candidates for the COM positions.⁵ *Id.*

Calhoun argues the Army's evaluation of its staffing plan was unreasonable, as there was no requirement in the solicitation for offerors to name bench candidates and because Calhoun, with its incumbent personnel, has never previously been unable to perform successfully. Protest at 2-8; Comments at 1-3. The agency argues that the evaluation of Calhoun's staffing plan was reasonable and not based on an unstated evaluation criterion. MOL at 7-11, 14-18. Additionally, both the Army and the intervenor, Preting, contend that Calhoun has failed to demonstrate that it was prejudiced by the alleged evaluation error, *i.e.*, even without the staffing plan weakness which Calhoun disputes, Preting would still represent the overall best value to the agency. MOL at 8-11; Intervenor Comments at 3-5. We agree.

Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the procurement were found. *Tyonek Eng'g & Agile Mfg., LLC*, B-419775 *et al.*, Aug. 2, 2021, 2021 CPD ¶ 263 at 12 n.12; *HP Enter. Servs., LLC*, B-411205, B-411205.2, June 16, 2015, 2015 CPD ¶ 202 at 6.

⁵ Calhoun alleges it was improper for the SSA to determine that Preting had a better technical approach based on a difference in the offerors' candidates with CI polygraph security clearances. Comments at 3-4. We find this argument to be misleading. The record reflects the SSA found Preting's staffing plan to be more advantageous than Calhoun's based on identified bench candidates for the COM positions, and not CI polygraph security clearances, as Calhoun's argument would imply. AR, Tab 10, SSDD, Sept. 15, 2022, at 9.

As a preliminary matter, we note that the protester raises no challenges to the Army's evaluation of offerors' cost proposals, or transition plan proposals, and challenges only one aspect of the evaluation of staffing plan proposals, specifically, the weakness assigned to Calhoun's own proposal for the lack of identified bench candidates for the COM positions. Thus, Calhoun does not dispute the offerors' evaluated costs or assigned ratings in any area other than the staffing plan subfactor, where Calhoun received a rating of "good" and Preting received a rating of "outstanding." Even without the assigned staffing plan weakness, Calhoun would still have three strengths (and no weaknesses), while Preting had four strengths (and no weaknesses). Moreover, one of Preting's assessed strengths--proposing identified bench candidates for both the HUMINT targeting specialist and COM positions--was found by the SSA to be a technical advantage between the two proposals.⁶

Thus, even with the Calhoun weakness removed, Preting would remain both technically superior to, and lower cost than, Calhoun. For that matter, even if Preting had not been assigned a strength for its bench candidates--and the SSA found the proposals to be technically equivalent--Preting would still remain lower cost. *Verizon Bus. Network Servs., Inc.*, B-419271.5 *et al.*, Apr. 26, 2021, 2021 CPD ¶ 191 at 9 (finding that no price/technical tradeoff was required as part of a best-value source selection when proposals are deemed technically equal and one was lower-priced than the other); *The MIL Corp.*, B-297508, B-297508.2, Jan. 26, 2006, 2006 CPD ¶ 34 at 14. Quite simply, as Preting's lower-cost proposal would remain in line for award ahead of Calhoun's proposal, even if the protester's allegation concerning the staffing plan evaluation was supported by the record--which we do not find--Calhoun has failed to establish that it was prejudiced by the alleged evaluation error.

Finally, Calhoun contends that there is a reasonable possibility of prejudice insofar as the cost advantage associated with Preting's proposal was but a small one ("a mere \$55,000"), and because Calhoun, as the incumbent, is entitled to a credit for the inefficiency to transition to a new contractor. Comments at 4-5, citing *Advanced Mgmt., Inc.*, B-251273.2, Apr. 2, 1993, 93-1 CPD ¶ 288. We disagree.

In *Advanced Mgmt., Inc.*, we found the agency's consideration that a new contractor would perform less efficiently than the incumbent at the beginning of contract performance was not the improper application of an unstated evaluation factor in that particular procurement. *Id.* at 6-7; see also *Johnson Controls World Servs. Inc.*, B-257431, B-257431.5, Oct. 5, 1994, 94-2 CPD ¶ 222 at 3-4 (finding an agency may properly consider work efficiency in connection with evaluation factors to which it is related). Here, by contrast, Calhoun fails to establish--or even allege--what evaluation criterion in this procurement would permit (let alone require) the consideration of

⁶ Relevant here, Calhoun does not protest that it was improper for the Army to award Preting a strength for this aspect of its proposal. Comments, *passim*.

transition inefficiency as part of the agency's evaluation and award decision.⁷ In sum, Calhoun fails to establish that its incumbency was entitled to a credit for an allegedly lack of transition inefficiency to a new contractor, or that it was otherwise competitively prejudiced by the alleged technical evaluation error.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁷ Likewise, while Preting's cost advantage over Calhoun was a relatively small one, the fact remains that Preting was lower-cost than--as well as technically superior to-- Calhoun. See *Northern Va. Serv. Corp.*, B-258036.2, B-258036.3, Jan. 23, 1995, 95-1 CPD ¶ 36 at 9-10 (finding a price advantage, while relatively small (\$31,492), remained a price advantage of one offeror over another).