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# Decision

**Matter of:** International Business Machines Corporation

**File:** B-420725.4; B-420725.5

**Date:** August 18, 2023

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## DIGEST

1. Protest alleging the agency unreasonably evaluated the protester's quotation under the management approach factor is denied where the record shows the evaluation and award decision were reasonable, and, to the extent there were any errors, the protester cannot establish any reasonable possibility of competitive prejudice.
2. Protest challenging the agency's evaluation of the awardee's quotation under the technical approach factor is denied where the evaluation was reasonable and consistent with the terms of the solicitation.

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## DECISION

International Business Machines, Corporation (IBM), of Bethesda, Maryland, protests the issuance of a task order to MAXIMUS Federal Services, Inc. (MAXIMUS), of Falls Church, Virginia, under request for quotations (RFQ) No. 8098, issued by the Department of Treasury, Internal Revenue Service (IRS), for consultation and subject matter expertise to the IRS's data delivery services programs. The protester contends the agency's evaluation of its quotation concerning its proposed level of effort was unreasonable, and that the evaluation of MAXIMUS's technical quotation was flawed and inconsistent with the terms of the solicitation.

We deny the protest.

## BACKGROUND

The agency issued the RFQ on January 12, 2021, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 16.5, to firms holding contracts under the General Services Administration's (GSA) Alliant 2 multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contract.<sup>1</sup> Agency Report (AR), Tab D.2.7.1, RFQ at 52, 98; Contracting Officer's Statement (COS) at 2. The solicitation contemplated the issuance of a single task order, with fixed-price and labor-hour contract line items, with a 1-year base period of performance and four 1-year option periods. RFQ at 33, 39. The IRS sought consultation and subject matter expertise for the agency's data delivery services programs, which included design, configuration, customization, development, integration, and implementation of data analytics and reporting capabilities. *Id.* at 9.

The solicitation advised that award would be made on a best-value tradeoff basis, considering three non-price factors, listed in descending order of importance: (1) technical approach; (2) management approach; and (3) corporate experience.<sup>2</sup> *Id.* at 104-105. For each non-price factor, the IRS would assign one of three adjectival ratings: high confidence; some confidence; or low confidence. *Id.* at 103. The RFQ provided that the agency was "more concerned with obtaining superior technical performance or reduced risk than making an award at the lowest overall cost to the Government[.]" and that "[a]ll evaluation factors other than cost or price, when combined, are significantly more important than price." *Id.*

The agency initially made award to MAXIMUS on April 13, 2022. COS at 2. IBM filed a protest with our Office on May 2, challenging the agency's evaluation of quotations. On July 14, our Office dismissed IBM's protest as academic, based on the agency's representation it would take corrective action. *International Bus. Machines Corp., B-420725 et al.*, July 14, 2022 (unpublished decision). As part of its corrective action, the IRS amended the solicitation and conducted discussions with vendors in the competitive range. COS at 2. The agency received final quotations from multiple vendors, to include IBM and MAXIMUS. *Id.* Relevant here, the IRS evaluated the quotations of IBM and MAXIMUS as follows:

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<sup>1</sup> The RFQ was amended multiple times; all citations are to the first amended version of the post-corrective action RFQ, using the Adobe PDF document page numbers.

<sup>2</sup> The solicitation also included a number of pass/fail evaluation criteria. See RFQ at 104. Both IBM and MAXIMUS were rated as acceptable under these factors, and IBM does not challenge the agency's evaluation with respect to these factors.

	IBM	MAXIMUS
<b>Technical Approach</b>	High Confidence	High Confidence
<b>Management Approach</b>	High Confidence	High Confidence
<b>Corporate Experience</b>	High Confidence	High Confidence
<b>Total Evaluated Price</b>	\$26,313,644	\$32,651,502

AR, Tab O, Award Decision Document (ADD) at 33.

The source selection authority (SSA), who was also the contracting officer, concluded that MAXIMUS's quotation represented the best value to the IRS. *Id.* at 43. In so finding, the SSA explained that MAXIMUS's quotation included significantly more fixed-price labor hours than IBM's quotation, which represented less risk to the IRS. *Id.* Accordingly, even though both vendors had identical non-price ratings, the SSA determined that MAXIMUS's staffing approach, which included approximately 45 percent more fixed-price labor hours than IBM's, was worth the associated 24 percent premium. *Id.*

The IRS issued the task order to MAXIMUS on April 28, 2023. COS at 3. Following a debriefing, this protest followed.<sup>3</sup>

## DISCUSSION

The protester raises two principal challenges to the agency's conduct of the procurement. First, IBM argues the agency miscalculated the firm's offered level of effort, resulting in the IRS making unreasonable evaluation conclusions regarding its quotation under the management approach factor. Second, the protester contends the agency conducted a flawed evaluation of MAXIMUS's quotation under the technical approach factor, where the IRS failed to penalize the awardee's quotation for failing to address numerous performance work statement (PWS) requirements. For the reasons that follow, we find no basis to sustain the protest.<sup>4</sup>

### Evaluation of IBM's Management Approach

As noted above, the solicitation sought contractor consultation and subject matter expertise for information technology applications related to the IRS's data deliver

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<sup>3</sup> Because the estimated value of the issued task order is over \$10 million, this procurement is within our jurisdiction to hear protests related to the issuance of orders placed under IDIQ contracts awarded under the authority granted in title 41 of the United States Code. 41 U.S.C. § 4106(f)(1)(B).

<sup>4</sup> IBM raises other collateral allegations. Although our decision does not specifically address them all, we have considered each argument and find that none provides a basis on which to sustain the protest.

services organization. RFQ at 8. The solicitation explained that the scope of work for this effort generally fell into four categories, one of which--operations and maintenance of existing applications--is at issue here.<sup>5</sup> *Id.* at 10. Within these four broad categories of work, the PWS specified ten specific subtasks, which corresponded to a unique contract line item. *Id.* at 10-11. As relevant here, subtask four--operation and maintenance (O&M) support--was separated into three component subtasks: 4a - coverage data repository O&M support; 4b - information returns database O&M support; and 4c - information sharing returns analytics and reporting O&M support. *Id.* at 10.

In preparing its quotation, the solicitation explained that under the management approach factor, a vendor should “[d]escribe its project staffing approach and provide a staffing plan, describing the project staffing strategy, the proposed labor mix and the rationale for the proposed labor mix. . . .” *Id.* at 100. The RFQ further provided the labor mix should include, among other things, the estimated hours and labor mix of the key and non-key personnel. *Id.* The IRS would evaluate proposed staffing to determine the extent to which it offered a “comprehensive, relevant, feasible, and practical staffing methodology including the skills, experience, and qualifications of the proposed labor categories/labor mix and level of effort for each RFQ task area.” *Id.* at 105-106.

The protester’s allegation concerns the agency’s evaluation of IBM’s offered labor hours and mix under the management approach factor, specifically with respect two of the O&M subtasks, 4a and 4c. Protest at 28-29; Comments and Supp. Protest at 24-30; Supp. Comments at 5-9; 2<sup>nd</sup> Supp. Comments 2-7. In this regard, the IRS found that IBM’s reductions in senior staff and subject matter experts (SMEs) from the base year of the contract across the option years for subtasks 4a and 4c decreased confidence that the protester could successfully perform the contract. In both the technical and labor evaluation, the agency’s evaluators identified--for both subtasks 4a and 4c--IBM’s reduction in labor hours from the base year as compared to the option years, and noted the reduction in senior staffing hours in the same. AR, Tab K, IBM Tech. Evaluation at 16-17; Tab L, IBM Labor Hours Evaluation at 3, 5. The evaluators explained that the reductions in senior staffing hours were achieved by “rolling off” (*i.e.*, eliminating) senior staff and SME labor hours in the option years of the contract. *Id.* The evaluators concluded that this reduction “raises concern” of having limited senior staff guiding junior staff to complete the requirements. *Id.* These concerns were shared by the SSA, who noted in the tradeoff that “there were some concerns related to [IBM’s] proposed level of effort/labor mix” for the O&M subtasks. AR, Tab O, ADD at 20, 43.

IBM, however, contends the agency’s evaluation judgments were in error. In this regard, the protester avers that the agency evaluators overstated IBM’s reductions in senior and SME staffing for subtasks 4a and 4c, by 11 percent and 41 percent, respectively. As such, the evaluators’ conclusions regarding IBM’s total staffing and total senior/SME staffing reductions in the option years rest on flawed and inaccurate calculations of IBM’s proposed staffing. In the protester’s view, the agency’s

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<sup>5</sup> The three other task categories were: integration management oversight; earned value management; and security. RFQ at 10.

conclusions that IBM's senior and SME staffing reductions in the option years decreased the agency's confidence in IBM's ability to successfully perform the order were unreasonable. Moreover, IBM avers, the SSA relied on the evaluators' erroneous calculations concerning the reduction in hours for subtasks 4a and 4c. See AR, Tab O, ADD at 20 (restating the labor hour reductions identified by the technical and labor hour evaluators). Accordingly, the protester argues that had the evaluators "correctly presented the reductions in Senior/SME labor hours to the SSA, there is a reasonable possibility that this would have eliminated or at least reduced two of the four concerns identified for IBM's quotation, resulting in the selection of IBM's equally rated lower-priced quotation for award." Comments and Supp. Protest at 30.

In response, the agency does not contest that the record includes certain calculation errors, but argues that these error was not prejudicial. Supp. Memorandum of Law (Supp. MOL) at 12-15. This is because the evaluators' concerns were "not the amount of the total reduction of senior/SME hours examined in a vacuum, rather it was remaining labor mix after the senior/SME staff were rolled off." *Id.* at 12. The IRS argues the underlying record reflects these concerns, where the technical evaluation, the labor hour evaluation, and the award decision all explain the agency's "concern" regarding that the rolling off senior staff and SMEs at the end of the base period of performance would leave limited personnel to provide analytical and technical support or otherwise guide junior resources. See AR, Tab K, IBM Tech. Evaluation at 16-17; Tab L, IBM Labor Hours Evaluation at 3, 5; Tab O, ADD at 20.

Competitive prejudice is an essential element of any 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 are found. *AdvanceMed Corp.*, B-415360 *et al.*, Dec. 19, 2017, 2018 CPD ¶ 4 at 10; *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, 2015 CPD ¶ 228 at 12-13.

We agree with the agency that the protester cannot reasonably demonstrate competitive prejudice because of the alleged miscalculations.<sup>6</sup> First, the underlying record reasonably supports the agency's contention that central to the evaluators' "decreases confidence" findings was IBM's reduction of senior/SME labor in the option years. See AR, Tab K, IBM Tech. Evaluation at 16-17; Tab L, IBM Labor Hours Evaluation at 3, 5. Indeed, this concern is mentioned across both the underlying technical and labor hour evaluation, as well as in the SSA's award decision. *Id.* We acknowledge that the contemporaneous evaluation record does seem to reflect two concerns related to IBM's rolling off senior/SME personnel, one regarding the number of senior/SME personnel available to support the effort, and the second related to the total

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<sup>6</sup> Based on the underlying record, it appears the agency failed to consider that IBM increased one of its SME labor categories ([DELETED]) from the base year through the option years. See AR, Tab E.15, IBM Revised Tech. Quotation at 34-35; see *also* Tab Z, Supp. Technical Evaluation Team (TET) Chair at 27-29 (explaining the TET's reductions of senior/SME labor hours "does not reflect" this increase).

number of proposed senior/SME hours. For example, concerning subtask 4c, the SSA identified concerns with the number of senior/SME personnel available, but also with the total number of hours. *Compare* AR, Tab O, ADD at 20 (rolling off senior/SME personnel “raises concern of having [DELETED] to guide junior resources to provide analytical and technical support . . .”) *with id.* (“The hours identified by IBM are low for subtasks [4a and 4c.]”). However, the record reasonably suggests that the agency’s principal concern was the lack senior/SME staffing in the option years, rather than IBM’s overall senior/SME staffing hours. *See e.g., id.* (IBM’s “insufficient number of senior resources during Option Periods raises concerns on adequate staffing to successfully accomplish all tasks without government staff augmentation or extensive guidance.”). Accordingly, the agency’s concerns regarding IBM’s senior/SME labor mix in the option years remains reasonable, even factoring in the additional senior personnel hours IBM proposed in the option years for one labor category. Accordingly, we cannot conclude IBM can reasonably demonstrate competitive prejudice because of the evaluators’ alleged miscalculation.

Further, even if we were to accept the protester’s contention that the agency was only concerned with the total proposed hours, as opposed to the labor mix, and its calculations as to the additional hours it actually proposed, the protester cannot present any reasonable basis that it was prejudiced by these errors where the SSA’s contemporaneous award decision reflects that the alleged errors would not materially impact the key discriminator identified between IBM’s and the awardee’s quotations. As noted above, both IBM and MAXIMUS received the same adjectival ratings for each of the non-price factors. AR, Tab O, ADD at 33. Despite IBM’s quotation offering a lower price than MAXIMUS’s quotation, the IRS nevertheless determined MAXIMUS’s quotation offered better value. The SSA explained her conclusion was premised on the fact that MAXIMUS’s quotation proposed significantly more fixed-price labor hours than IBM’s quotation, which, in the agency’s view, reduced the risk of unsuccessful performance. Indeed, IBM proposed almost [DELETED] fixed-price hours, as compared to MAXIMUS’s quotation offering approximately [DELETED] fixed-price hours. *Id.* at 43. Even granting the approximately [DELETED] hour mathematical error IBM claims with respect to its offered fixed-price labor hours under tasks 4a and 4c, there would remain a significant gulf (approximately [DELETED] hours) between IBM’s and MAXIMUS’s fixed-price staffing, the paramount consideration in the agency’s tradeoff analysis. In the absence of a reasonable possibility of prejudice, we find no basis to sustain the protest. *AdvanceMed Corp., supra* at 10.

#### Evaluation of MAXIMUS’s Technical Approach

The protester also challenges the agency’s evaluation of MAXIMUS’s quotation under the technical approach factor. In this regard, IBM contends because MAXIMUS failed to address twelve PWS requirements in its technical quotation, the agency’s rating of high confidence was unwarranted and contrary to the terms of the solicitation. Comments and Supp. Protest at 5-17; Supp. Comments at 9-38; 2<sup>nd</sup> Supp. Comments 7-11. In response, the agency and intervenor argue that IBM’s argument rests on a flawed and unreasonable reading of the RFQ and, in the alternative, MAXIMUS’s quotation did

meet the PWS criteria at issue. Supp. MOL at 3-6; 2<sup>nd</sup> Supp. MOL at 2-3; Intervenor's Supp. Comments at 11-22.

This task order competition was conducted pursuant to FAR subpart 16.5. The evaluation of quotations in a task order competition, including the determination of the relative merits of quotations, 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. *See Engility Corp.*, B-413120.3 *et al.*, Feb. 14, 2017, 2017 CPD ¶ 70 at 15; *URS Fed. Servs., Inc.*, B-413333, Oct. 11, 2016, 2016 CPD ¶ 286 at 6. Our Office will review evaluation challenges to task order procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. *Engility Corp.*, *supra* at 15-16. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. *Id.*

A discussion of the relevant solicitation provisions at issue is instructive. As noted above, the performance requirements for this effort were broken down into ten distinct subtasks, which in turn were further subdivided in the PWS. RFQ at 10-11. For each subtask and subtask component, the PWS provided a narrative description of the work entailed, a stated desired outcome, and a bullet-point listing of representative tasks/functions relevant to the required effort. For example, subtask four (O&M support) included several subcomponents, to include O&M analysis support. *Id.* at 17-18. The PWS explained that this analysis support "includes, but is not limited to" 25 tasks/functions identified by bullet point. *Id.* at 18.

In preparing its quotation, the RFQ's quotation instructions set forth in section L explained that a vendor "shall identify and describe the methodology and analytical techniques to be used in fulfilling the technical requirements identified in the RFQ" and "should tailor the technical approach to achieve the requirement as identified in this solicitation." *Id.* at 99. As relevant here, the solicitation further explained that a quotation should describe how a vendor will meet the goals, objectives, conditions, and task requirements identified in the PWS, and that the offered "methodology shall clearly identify the technical approach and how it will address and achieve the goals, objectives, conditions, and task requirements." *Id.* at 100. The IRS would evaluate quotations under the technical approach factor "based on the clarity and completeness of the approach and the degree to which the proposal meets the requirements of the RFQ Section L." *Id.* at 105. Elements the agency would consider in its evaluation included the extent a vendor's "approach demonstrates a comprehensive, effective, and efficient approach/methodology for meeting, integrating, and accomplishing the objectives, conditions, and requirements of each task area that encompasses all of the subtask requirements of the RFQ." *Id.*

The crux of the protester's argument concerns the bullet-point listing of tasks/functions in the PWS. IBM explains the agency was required to evaluate the degree to which a vendor's quotation met the requirements of section L of the RFQ, and consider whether the proposed approach could meet the requirements of each task and subtask outlined

in the solicitation. *Id.* at 105. In turn, section L required vendors to address “the goals, objectives, conditions, and task requirements” in the PWS. *Id.* at 100. IBM advances the interpretation that each aspect identified in the PWS was a requirement to be addressed in a vendor’s quotation. Comments and Supp. Protest at 3; Supp. Comments at 10. That is, taking the O&M analysis support example noted above, because the RFQ stated that O&M analysis support “includes, but is not limited to” 25 tasks/functions, each aspect of those 25 tasks/functions was required to be addressed in a vendor’s quotation.

For example, one of these 25 tasks/functions identified under O&M analysis support concerned “[i]dentifying, extracting, and formatting required data to support [ ] project development[.]” RFQ at 18. IBM argues because MAXIMUS’s quotation addressed “identifying” such data, but not “extracting” and “formatting” it, the agency should have determined this failure decreased confidence of successful performance. Comments and Supp. Protest at 7; Supp. Comments at 15-16. Had the agency not ignored MAXIMUS’s failure to address the identified 12 PWS requirements, the IRS would not have assigned a rating of high confidence to MAXIMUS’s quotation. *Id.*

As an initial matter, nothing in the RFQ would reasonably suggest that a vendor was obliged to address every detail of expected performance delineated the PWS, nor that those details constituted “requirements” of performance. Instead, the solicitation explained that the agency would evaluate technical quotations based on “clarity and completeness” and the “degree” to which a quotation met the section L requirements. RFQ at 105. In turn, section L explained that vendors were to describe how they would generally meet the “goals, objectives, conditions, and task requirements” laid out in the PWS. *Id.* at 100. The “requirements” which IBM points to are not, in our view, requirements, but instead, as the TET chair notes, were “a non-exhaustive list of examples of tasks to be completed” under the instant requirement. AR, Tab Z, Supp. TET Chair Declaration at 1. This explanation is supported by the text of the PWS. See RFQ at 18 (O&M analysis support “includes, but is not limited to” the list of examples).

Based on our review of the record, we cannot conclude the agency’s evaluation judgments were unreasonable. Instead, the record demonstrates the agency undertook a holistic evaluation based on the criteria identified in the RFQ. See AR, Tab M, MAXIMUS’s Tech. Evaluation at 5-6 (identifying several aspects of the MAXIMUS’s technical approach which “increases confidence” of successful performance with respect to whether the approach demonstrates an approach/methodology for accomplishing the task/subtask requirements.). Accordingly, we find no basis to sustain the protester’s allegation that the IRS unreasonably failed to make a finding of “decreases confidence” where MAXIMUS’s quotation did not specifically address every facet of the bullet-point tasks/functions.<sup>7</sup>

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<sup>7</sup> Because we conclude the RFQ did not require quotations to include this level of detail, we need not address the agency’s contention that MAXIMUS did, in fact, address each bullet-point task/function at issue in this protest. We similarly need not address the



The protest is denied.

Edda Emmanuelli Perez  
General Counsel

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intervenor's arguments that IBM's own quotation failed to address each of the bullet-point tasks/functions.