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Decision

Matter of: Gemini Tech Services, LLC

File: B-421911; B-421911.2

Date: November 22, 2023

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DIGEST

Protest challenging the agency's evaluation of proposals and source selection decision is denied where the agency's evaluation was reasonable, adequately documented, and consistent with the terms of the solicitation.

DECISION

Gemini Tech Services, LLC (Gemini), a small business of Willow Park, Texas, protests the issuance of a task order to Management Analysis Technologies, Inc. (MAT), a small business of Fredericksburg, Virginia, under request for proposals (RFP) No. W15QKN-23-R-0041, issued by the Department of the Army for program management, transition counselor, and help desk support services for the Army National Guard (ARNG). Gemini challenges the agency's evaluation of proposals and the resulting source selection decision.

We deny the protest.

BACKGROUND

The ARNG's Guard Strength Enhancement Program (GSEP) supports the ARNG in transitioning soldiers at active component installations to reserve components through reserve component career counseling. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2. Reserve component career counselors work with Army retention professionals as ambassadors for the Army to transition qualified

soldiers into either the ARNG or United States Army Reserve. *Id.* Another key element to ARNG's mission is to recruit qualified soldiers with prior military service into the ARNG from the Individual Ready Reserve. *Id.* The instant procurement is intended to fulfill the ARNG's need for program management, transition counseling, GSEP coordination with reserve component career counselors, and helpdesk support. *Id.*

The Army issued request for proposals (RFP) No. W15QKN-23-R-0041, on May 11, 2023, pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 16.5, to firms holding the Army's Human Resource Solutions 5th Generation, Recruitment, Management and Administrative Support multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contracts. Agency Report (AR), Tab 5.b, RFP at 1. The RFP, which the Army amended once, contemplated issuance of a single fixed-price task order with cost-reimbursement line items for other direct costs including travel. *Id.* The task order period of performance will consist of a 12-month base period (inclusive of a 30-day entrance transition period) and four 12-month option periods. *Id.*

The RFP provided that award would be made on a best-value tradeoff basis considering technical and cost/price factors, with the technical factor being more important than cost/price. AR, Tab 5.c, Task Order Evaluation Plan (TOEP) at 1. The technical factor consisted of four evaluation areas: technical approach;¹ staffing approach; management process; and transition plan. *Id.* at 3. The RFP advised offerors that these areas were not subfactors and would not be separately weighted. *Id.*

With respect to the staffing approach area, the RFP instructed offerors to submit a detailed explanation of their staffing methodology, cross-utilization of personnel, and basis for calculating annual productive hours. *Id.* at 4-5. Additionally, offerors were to complete a staffing approach matrix spreadsheet, and to describe their approach to staffing, recruiting, and retention, as well as their plans to minimize turnover rates and vacancy time. *Id.*

In the management process area, offerors were to provide clearly defined management and organization processes and procedures that will ensure that the offeror can meet the stated performance objectives. *Id.* at 5. Offerors also were to clearly describe how they intended to manage a dispersed workforce at various locations, as well as their methodology for inspections and timely identification and resolution of issues. *Id.* Additionally, offerors were to provide their approach to ensure uninterrupted services through employee turnover and personnel absence, and an organizational chart depicting clear lines of authority. *Id.*

Finally, offerors were to submit a transition plan describing the offeror's approach to the transition from the incumbent contractor; approach for recruiting and hiring qualified personnel in a short period of time; milestones; new hire orientation processes; and plan for mitigating performance and technical risk. *Id.* at 5-6. Offerors were to provide a

¹ As the protester's allegations do not implicate the technical approach area of the technical factor, we do not discuss this area further in this decision.

proposed transition timeline; proposed roles and responsibilities (including interaction with government teams and personnel); identified transition risks, mitigation plans, and contingency plans; and a proposed approach to technical and procedural knowledge transfer from the incumbent contractor. *Id.* at 6.

The RFP provided that, under the technical factor, proposals would be evaluated for the extent to which they demonstrated a clear understanding of the requirements, adequately and completely considered, defined, and satisfied requirements, and proposed a workable approach with achievable end results. *Id.* at 7. Proposals would receive a combined technical/risk rating under that factor according to the following scale:

Color	Rating	Description
Blue	Outstanding	Proposal demonstrates an exceptional approach and understanding of the requirements and contains multiple strengths and/or at least one significant strength, and risk of unsuccessful performance is low.
Purple	Good	Proposal indicates a thorough approach and understanding of the requirements and contains at least one strength or significant strength, and risk of unsuccessful performance is low to moderate.
Green	Acceptable	Proposal meets requirements and indicates an adequate approach and understanding of the requirements, and risk of unsuccessful performance is no worse than moderate.
Yellow	Marginal	Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high.
Red	Unacceptable	Proposal does not meet requirements of the solicitation, and thus, contains one or more deficiencies and is unawardable, and/or risk of performance is unacceptably high.

Id. at 8.

As relevant here, the RFP defined a strength as an aspect of an offeror’s proposal with merit or that exceeds specified performance or capability requirements to the advantage of the government during contract performance. *Id.* The RFP defined a significant strength as an aspect of an offeror’s proposal with appreciable merit or that exceeds specified performance or capability requirements to the considerable advantage of the government during contract performance. *Id.* at 9.

The Army received four proposals, including from the protester and MAT. COS/MOL at 9. The agency identified three strengths in Gemini’s proposal, one under each of the staffing approach, management process, and transition plan areas. AR, Tab 8, Gemini Technical Evaluation at 3-5. Based on those strengths, the agency assigned Gemini’s

proposal a rating of good under the technical factor, with a total evaluated price of \$26,429,431.63. *Id.* at 5-6; AR, Tab 9, Gemini Price Evaluation at 8. MAT's proposal received a rating of outstanding under the technical factor, with a total evaluated price of \$25,175,809.32. AR, Tab 11, Debriefing at 2.

On August 4, the Army informed Gemini that it had selected MAT's proposal for award. COS/MOL at 10. Combined notices to the successful and unsuccessful offerors, along with debriefing letters, were sent to all offerors, including Gemini, on the same day. *Id.* Gemini submitted timely post-debriefing questions and received responses from the Army on August 18. *Id.* On August 23, Gemini submitted this protest to our office.² *Id.*

DISCUSSION

Gemini protests the Army's evaluation of its technical proposal, challenging both the agency's assignment of strengths and the resulting assigned adjectival rating of good. For the reasons discussed below, we conclude that the protester's allegations provide no basis on which to sustain the protest.

Assignment of Strengths

Gemini first challenges the Army's evaluation as failing to properly credit the advantages presented by Gemini's proposal in accordance with the RFP's stated evaluation criteria. Specifically, the protester alleges that the single strength assigned to its proposal for its recruitment and retention plan and identification of pre-qualified candidates for new positions under the transition plan area should have been evaluated as warranting multiple, separate significant strengths under multiple evaluation areas. Protest at 3-5; Comments at 2-7. The agency responds that its evaluation was reasonable and consistent with the RFP's evaluation criteria. COS/MOL at 16-24.

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 solicitation criteria and applicable procurement statutes and regulations. *Patriot Def. Group, LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 7. An agency's judgment that the features identified in a proposal do not significantly exceed the requirements of the RFP or provide advantages to the government--and thus do not warrant the assessment of significant strengths--is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, 2019 CPD ¶ 33 at 8 n.4. A protester's disagreement with the agency's assessment, without more, does not render the evaluation unreasonable. *The Ginn Group, Inc.*, B-420165, B-420165.2, Dec. 22,

² Because the estimated value of the issued task order is over \$25 million, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts awarded under the authority granted in title 10 of the United States Code. 10 U.S.C. § 3406(f).

2021, 2022 CPD ¶ 17 at 9. Under those guiding principles, we find no merit to Gemini's arguments regarding the assessment of strengths in its proposal.

As relevant to the protester's challenge, the record reflects that the agency considered Gemini's proposal to be advantageous on the basis of its feasible approach to searching for qualified candidates, as well as the proposed use of a pre-qualified list of personnel to fill new positions. AR, Tab 8, Gemini Technical Evaluation at 5. The agency concluded that Gemini's proposal demonstrated an understanding of appropriate candidate search platforms that would increase the likelihood of hiring qualified candidates, and that the list of pre-qualified personnel would increase the likelihood of successful hiring during the transition period and full staffing on day one of performance. *Id.* The agency therefore assigned a strength to Gemini's proposal in the transition plan area. *Id.*

The protester contends that this strength improperly combined two aspects of Gemini's proposal--its retention of all incumbent staff and pre-qualification of new personnel--into a single strength. Protest at 3-4. The protester argues that its plan to retain all incumbent personnel merited a significant strength under both the transition plan and staffing approach areas, and that its specific identification of new personnel merited a significant strength under the transition plan area. Comments at 2-7.

In support of the argument that Gemini's proposal warranted multiple significant strengths across multiple evaluation areas for proposing to retain all incumbent personnel, the protester principally relies on its incumbency to assert that it was "uniquely positioned to meet the Army's needs because it already employed experienced [reserve component career counselors]." Comments at 4. Additionally, the protester asserts that the retained personnel possessed experience and a knowledge base that would make the transition "less risky" and be a significant benefit to the performance of the task order. *Id.*

As an initial matter, we have explained that a protester's apparent belief that its incumbent status entitles it to higher ratings provides no basis for finding an evaluation unreasonable, as there generally is no requirement that an offeror be given additional credit for its status as an incumbent, or that the agency assign or reserve the highest rating for the incumbent contractor. *NLT Mgmt. Servs., LLC--Costs*, B-415936.7, Mar. 15, 2019, 2019 CPD ¶ 122 at 6-7; *PricewaterhouseCoopers Public Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 7.

Furthermore, the record demonstrates that the agency credited Gemini's proposal for its recruitment and retention plan. As the agency points out, it concluded that Gemini's recruitment and retention plan, *in combination with* its identification of pre-qualified personnel, was advantageous to the government. COS/MOL at 18; see *also* AR, Tab 8, Gemini Technical Evaluation at 5 ("When combined, the [o]fferor's transition plan through their feasible approach of searching for qualified candidates and their pre-qualified list of personnel are aspects of the [o]fferor's proposal with merit to the advantage of the [g]overnment during [task order] performance."). Thus, the record

reflects that the agency considered these aspects of Gemini's proposal in assigning a strength. To the extent the protester believes that its proposal merited a more heavily or significantly weighted strength, the protester's disagreement with the agency's judgment, without more, does not provide a basis to sustain the protest. *Protection Strategies, supra* at 8.

Similarly, the protester's argument that its proposal should have received a separate significant strength for its recruitment and retention plan under the staffing approach area provides no basis to sustain the protest. To the extent the protester believes it should have been assigned multiple strengths for the same aspect of its proposal, such a challenge provides no basis to object to the agency's evaluation. See *SMS Data Prods. Group, Inc., B-418925.2 et al.*, Nov. 25, 2020, 2020 CPD ¶ 387 at 8. As we previously have noted, whether an agency counted benefits as multiple aspects of a single strength, or as separate stand-alone strengths, is not the operative concern. Rather, the relevant inquiry is the reasonableness of the substantive evaluation findings. See *id.* As discussed above, the agency recognized the benefits of Gemini's proposed recruitment and retention plan when assigning a strength. The protester's disagreement with the weight ascribed to that evaluation finding, without more, does not demonstrate that the agency's evaluation was unreasonable in this regard.

The protester next argues that Gemini's proposed "slate of pre-qualified new candidates," standing alone, merited a significant strength in the transition plan area because it exceeded the requirements of the RFP to provide a plan for filling new positions.³ Protest at 4-5; Comments at 5-7. The protester contends that the RFP "only required offerors to proffer a plan for achieving transition, not the ability to instantaneously perform on day one[.]" and that Gemini's identification of pre-qualified personnel therefore exceeded requirements. Comments at 6. Similar to the recruitment and retention plan discussed above, the record reflects that the evaluators took notice of Gemini's identification of pre-qualified hires and its attendant benefits, noting in particular that the identification of new candidates "increases the likelihood of successful hiring during the transition period and having a fully staffed workforce during day one of full [task order] performance." AR, Tab 8, Gemini Technical Evaluation at 5. Thus, the record demonstrates that the agency considered and evaluated the protester's specific

³ The protester also initially alleged that its specific identification of individuals to fill new positions warranted additional strengths under both the staffing approach and management process areas. See Protest at 5. The agency provided a detailed response to these allegations in its agency report. See COS/MOL at 18-22. The protester did not substantively address this argument in its comments, stating generally only that it "should have received one or more [s]ignificant [s]trengths for its slate of pre-qualified new candidates." See Comments at 5. Accordingly, we consider the protester to have abandoned its argument that its proposal merited additional strengths in other evaluation areas for identifying pre-qualified personnel. See, e.g., *Citrus College; KEI Pearson, Inc., B-293543 et al.*, Apr. 9, 2004, 2004 CPD ¶ 104 at 8 n.4 (dismissing arguments as abandoned where the protester's comments alleged, without more, that the original arguments "[we]re maintained").

approach. The protester may disagree with the agency's assessment of the benefits of that approach, but the protester's disagreement is insufficient to demonstrate that the agency's evaluation was unreasonable.

Adjectival Rating

The protester also alleges that the agency should have assigned a rating of outstanding, rather than good, to Gemini's proposal under the technical factor. Protest at 5-6; Comments at 7-9. The protester first alleges that if the agency had assigned significant strengths to Gemini's proposal as discussed above, its proposal would have merited an outstanding rating. Protest at 6; Comments at 7. Even without those significant strengths, the protester alleges that its proposal nevertheless warranted an outstanding rating because it contained multiple strengths and the agency failed to adequately document its risk assessment. Comments at 8-9.

First, as discussed above, we conclude that the protester has not demonstrated that the agency unreasonably evaluated the strengths of Gemini's proposal. Accordingly, we deny the protester's challenge to the assigned adjectival rating on the basis of a flawed underlying evaluation.

Even if the underlying evaluation was proper, the protester argues that Gemini's proposal nevertheless warranted an outstanding rating under the technical factor pursuant to the RFP's definitions. As the protester points out, the RFP defined an outstanding rating as corresponding to the demonstration of "an exceptional approach and understanding of the requirements and contains multiple strengths and/or at least one significant strength, and risk of unsuccessful performance is low." Comments at 7. By contrast, the RFP defined a good rating as corresponding to the demonstration of "a thorough approach and understanding of the requirements and contains at least one strength or significant strength, and risk of unsuccessful performance is low to moderate." *Id.* at 7-8. In light of the assignment of multiple strengths to Gemini's proposal, the protester reasons that its proposal must have received a rating of good, rather than outstanding, because the agency concluded that the risk associated with Gemini's proposal was "low to moderate." *Id.* at 8. The protester contends that the agency failed to "substantiate why the Army perceives moderate risk with Gemini's approach[.]" thereby rendering unreasonable the rating of good. *Id.*

There are two fundamental flaws in the protester's argument. First, as we previously have noted, a finding of low to moderate risk self-evidently does not require a finding of moderate risk. *Leidos Inc.*, B-421252.4, Apr. 28, 2023, 2023 CPD ¶ 97 at 8. Rather, it merely requires a finding that a proposal poses risks somewhere on a continuum from low to moderate risk. *Id.* Thus, simply because the agency found multiple strengths in Gemini's proposal and assigned a rating of good to that proposal, it does not necessarily follow that the agency determined that Gemini's proposal presented a moderate risk, preventing the assignment of a rating of outstanding, which requires an evaluation of low risk. Indeed, the Army found that certain aspects of Gemini's management process would "reduce the risk of continuity loss through unstaffed periods

and the risk of underperformance due to prolonged vacancies[,]" and concluded that the protester's proposal, overall, "provides the [g]overnment with a high level of confidence for the successful execution of the [task order], and for the [o]fferor's ability to complete the [performance work statement] tasks and technical requirements." AR, Tab 8, Gemini Technical Evaluation at 4, 6. Thus, to the extent the protester complains that the agency failed to document its risk evaluation, these contemporaneously documented findings are reasonably consistent with a risk assessment that falls within a continuum from low to moderate risk.

Second, and more importantly, the protester's argument ignores an additional differentiator between an outstanding rating and a good rating. As set forth in the RFP, an outstanding rating is associated with "an exceptional approach and understanding of the requirements," whereas a good rating is associated with "a thorough approach and understanding of the requirements." See AR, Tab 5c, TOEP at 8. Based on the strengths (and absence of weaknesses) assigned to Gemini's proposal, the agency concluded that the protester had demonstrated a thorough approach and understanding of the requirements. AR, Tab 8, Gemini Technical Evaluation at 5-7. The protester has not challenged this finding. In light of the agency's determination--based upon the underlying evaluation--that Gemini's proposal demonstrated a thorough approach and understanding of the requirements, the assignment of a rating of good was reasonable and consistent with the RFP's evaluation criteria.

Notwithstanding a protester's focus on adjectival ratings, our decisions provide that adjectival ratings are merely guides for intelligent decision-making in the procurement process. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 6 n.3. The relevant question here thus is not what adjectival rating should have been assigned by the agency, but whether the underlying evaluation is reasonable and supports the source selection decision. *INDUS Tech., Inc.*, B-411702 *et al.*, Sept. 29, 2015, 2015 CPD ¶ 304 at 4.

Here, as discussed above, we find the Army's technical evaluation to be reasonable and consistent with the RFP's evaluation criteria. Based on the technical evaluation, the agency reasonably concluded, based on the strengths Gemini's proposal received, that Gemini had demonstrated a thorough approach and understanding of the requirements, that the risk of unsuccessful performance was low to moderate, and that a rating of good was warranted. Gemini's belief that the identified strengths associated with its proposal warranted an outstanding rating amounts to disagreement with the agency's evaluation of proposals, which does not provide a basis on which to sustain the protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel