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# Decision

**Matter of:** SierTeK-Peerless JV LLC

**File:** B-422085; B-422085.2

**Date:** January 2, 2024

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Suzanne Sumner, Esq., Barbara A. Duncombe, Esq., Erin R. Davis, Esq., Brandon E. Dobyns, Esq., and Alexander Gorelik, Esq., Taft Stettinius & Hollister LLP, for the protester.

Michael Kiffney, Esq., and Scott Dalton, Esq., Department of Homeland Security, for the agency.

Nathaniel S. Canfield, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest challenging the agency's evaluation of the awardee's proposal is sustained where the record is insufficiently documented to demonstrate that the agency reasonably evaluated the prior experience evaluation factor in a manner consistent with the solicitation.

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## DECISION

SierTeK-Peerless JV LLC, an 8(a) small business of Beavercreek, Ohio, protests the issuance of a task order to Strativia LLC, an 8(a) small business of Largo, Maryland, under request for proposals (RFP) No. 70T01023R7668N001, issued by the Department of Homeland Security, Transportation Security Administration (TSA) for support services to maintain TSA's property management program.<sup>1</sup> The protester contends that the agency unreasonably evaluated Strativia's proposal and improperly determined that it offered the best value to the agency.

We sustain the protest.

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<sup>1</sup> Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes the Small Business Administration to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. Federal Acquisition Regulation (FAR) 19.800. This program is commonly referred to as the 8(a) program.

## BACKGROUND

The agency issued the RFP pursuant to the fair opportunity source selection procedures of FAR subpart 16.5 to firms holding indefinite-delivery, indefinite-quantity (IDIQ) contracts under the General Services Administration's One Acquisition Solution for Integrated Services (OASIS) Governmentwide Acquisition Contract. Contracting Officer's Statement (COS) at 1; Agency Report (AR), Tab 2, Amended RFP at AR 0090.<sup>2</sup> The competition was open to OASIS 8(a) pool No.1 contract holders. COS at 2; Amended RFP at AR 0090. The RFP, which the agency amended once, sought proposals for technical and administrative property management support services to support the maintenance of the agency's property management program. COS at 2; Amended RFP at AR 0093. The RFP contemplated issuance of a single task order with fixed-price, time-and-materials, and cost-reimbursement line items, with a 1-year base period of performance (inclusive of a 2-month transition period) and four 1-year option periods, as well as a 6-month option to extend services. Amended RFP at AR 0091-0092, 0140, 0173.

The RFP provided for a best-value tradeoff using five evaluation factors, which are listed in descending order of importance: prior experience; staffing approach; technical demonstration; technical scenarios; and price. *Id.* at AR 0173-0174.

Relevant here, the RFP's instructions with respect to prior experience directed offerors to provide a detailed description of prior efforts "where the [o]fferor provided property management support . . . of a similar size and scope as the TSA [p]roperty [m]anagement [p]rogram[.]" and, in part, to "[d]escribe the project's size and scope, demonstrating how the work is similar to the requirements in the [p]roperty [m]anagement [performance work statement]." *Id.* at AR 0168-0169. Correspondingly, the RFP's evaluation criteria stated in part that the agency would "assess its level of confidence that the [o]fferor provided a detailed description of prior relevant experience examples where the [o]fferor provided property management support . . . of a similar size and scope as the TSA [p]roperty [m]anagement [p]rogram." *Id.* at AR 0174. The agency would assign a rating of low, some, or high confidence to proposals under each of the non-price factors, including the prior experience factor. *Id.* at AR 0173.

The protester and Strativia submitted the only proposals in response to the RFP. COS at 2. The agency evaluated those proposals as follows:

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<sup>2</sup> Citations to the record are to the numbered pages provided by the agency in its report, unless otherwise noted.

	<b>SierTeK-Peerless</b>	<b>Strativia</b>
<b>PRIOR EXPERIENCE</b>	HIGH CONFIDENCE	HIGH CONFIDENCE
<b>STAFFING APPROACH</b>	HIGH CONFIDENCE	HIGH CONFIDENCE
<b>TECHNICAL DEMONSTRATION</b>	HIGH CONFIDENCE	SOME CONFIDENCE
<b>TECHNICAL SCENARIOS</b>	HIGH CONFIDENCE	SOME CONFIDENCE
<b>PRICE</b>	\$27,737,139	\$19,459,160

AR, Tab 10, Source Selection Authority (SSA) Decision Memorandum at AR 0478 (prices rounded to nearest dollar).

On September 26, 2023, the agency notified the protester that it had selected Strativia for receipt of the task order. AR, Tab 11, Unsuccessful Offeror Notification. On September 28, the agency provided the protester with a requested debriefing. AR, Tab 12, Debriefing Slides. This protest followed.<sup>3</sup>

## DISCUSSION

The protester alleges that the agency unreasonably evaluated Strativia’s proposal, resulting in an improper best-value determination. Protest at 2-5; Comments & Supp. Protest at 5-8. For the reasons that follow, we conclude that the agency failed to adequately document its evaluation of Strativia’s proposal under the prior experience factor and sustain the protest on that basis.<sup>4</sup>

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<sup>3</sup> This protest is within our jurisdiction to hear protests related to task and delivery orders placed under civilian agency multiple-award IDIQ contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

<sup>4</sup> While our decision does not expressly address every argument raised by the protester, we have reviewed them all and, with the exception of the challenges to the agency’s evaluation of the relevancy of Strativia’s prior experience addressed herein, find that none provides a basis on which to sustain the protest.

For example, the protester alleges that the agency improperly determined that Strativia’s proposed price was reasonable, arguing that the agency’s analysis was flawed because it relied on comparisons to the average of submitted prices, an independent government estimate, and historical pricing that the protester argues were too low to reflect the actual costs for performing this requirement. Protest at 4-5; Comments & Supp. Protest at 8-12. The protester argues that the agency therefore erred in finding that Strativia’s proposed price--which was below those figures--was reasonable. In short, the protester argues that Strativia’s price was too low to be found reasonable. As our Office has made clear, however, the purpose of a price reasonableness analysis is to determine whether the prices offered are too high, as opposed to a price realism analysis, which determines whether prices are too low. See, e.g., *Aderas, Inc.*, B-418151, Jan. 16, 2020, 2020 CPD ¶ 30 at 4 n.5. Moreover, the RFP expressly stated that the agency did not intend to conduct a price realism analysis.

(continued...)

It is a fundamental principle of federal procurement that an agency must evaluate proposals consistent with the terms of the solicitation and, while the evaluation of offerors' proposals generally is a matter within the procuring agency's discretion, our Office will question an agency's evaluation where it is unreasonable, inconsistent with the solicitation's stated evaluation criteria, or undocumented. *Tantus Techs., Inc.*, B-411608, B-411608.3, Sept. 14, 2015, 2015 CPD ¶ 299 at 6; *Vertex Aerospace, LLC*, B-420073, B-420073.2, Nov. 23, 2021, 2022 CPD ¶ 5 at 9. It is well-established that contracting agencies do not have the discretion to announce in the solicitation that they will use one evaluation plan, and then follow another. *The Emergence Group*, B-404844.7, Feb. 29, 2012, 2012 CPD ¶ 133 at 7. Once offerors are informed of the criteria against which proposals will be evaluated, the agency must adhere to those criteria in evaluating proposals and making its award decision or inform all offerors of any significant changes made in the evaluation scheme. *Id.* Further, where an agency fails to document its evaluation or retain evaluation materials, it bears the risk that there may not be adequate supporting rationale in the record for GAO to conclude that the agency had a reasonable basis for the source selection decision. *Tantus Techs., supra* at 6; *Vertex Aerospace, supra* at 9.

Here, the RFP required the agency to consider the size of offerors' prior experience examples as compared to that of the solicited requirement in determining the relevancy of those efforts. As discussed above, the RFP's instructions directed offerors to provide a detailed description of their relevant prior efforts, including, in part, a description of both the size and the scope of those efforts. The RFP further instructed offerors to demonstrate how those efforts were similar to the requirement here. Also discussed above, the RFP stated that the agency would evaluate proposals under the prior experience factor based on the agency's confidence that the offeror had provided a detailed description of prior efforts that were, among other things, similar in size and scope to the property management support services being procured here. Thus, the

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See Amended RFP at AR 0175. Accordingly, the protester's argument fails to establish that the agency erred in determining that Strativia's proposed price was reasonable.

The protester also raises additional challenges to the agency's evaluation of Strativia's proposal under the prior experience factor, including the argument that the agency erroneously failed to consider that the majority of the performance of two of Strativia's prior experience examples occurred prior to the RFP's cut-off date for recency. Comments & Supp. Protest at 6. The RFP's instructions, however, made clear that "recent" meant performed within the last 5 years, and the evaluation criteria did not suggest that the agency would give more weight to more recent performance. See Amended RFP at AR 0168, 0174. The performance of those two efforts took place, at least partially, within the RFP's stated standard for recency, and therefore satisfied that standard. See, e.g., *LPE Strategy, LLC*, B-421723.2, B-421723.3, Oct. 16, 2023, 2023 CPD ¶ 246 at 10 (where solicitation defined "recent" experience as "within the last five (5) years," performance extending into that period satisfied recency requirement).

RFP contemplated that the agency's evaluation under this factor would consider, in part, the size of offerors' prior experience examples relative to the solicited requirement.

In assigning a rating of high confidence to Strativia's proposal under the prior experience factor, the agency's technical evaluation team (TET) concluded that Strativia's proposal had "demonstrated prior contract support that is . . . relevant in terms of size and scope[.]" AR, Tab 7, TET Report at AR 0452. Similarly, in making an award recommendation, the contracting officer also concluded that Strativia's proposal had demonstrated experience that was relevant in terms of size and scope based on the TET's evaluation. AR, Tab 9, Trade-Off Analysis and Award Recommendation at AR 0473. Additionally, the SSA reviewed the TET's assessment and agreed that Strativia's proposal had demonstrated prior contract support that was relevant in terms of both size and scope. AR, Tab 10, SSA Decision Memorandum at AR 0478. Thus, in assigning a rating of high confidence to Strativia's proposal under the prior experience factor, the agency determined that Strativia's prior experience examples were relevant to this requirement in terms of both size and scope. The record of the evaluation of Strativia's proposal, however, does not permit us to conclude that the agency reasonably considered the similarity of the size of Strativia's prior experience examples to the instant requirement.

With respect to the first project included in Strativia's proposal, the TET report contains little, if any, discussion of any indicia of the size of that effort as compared to this requirement. It does not discuss, for example, the dollar value of that effort in comparison to the TSA property management program support services being procured here. There is discussion of various other aspects that may bear on the size of the effort, such as the numbers of material coordinators, accountable property record items and equipment accounts, vehicles, and facilities, but the evaluation does not compare those aspects to what will be required for the TSA property management program. See AR, Tab 7, Strativia TET Report at AR 0448. In this regard, the TET report largely just restates the contents of Strativia's proposal without further analysis or elaboration.

The TET report does state that Strativia's second prior experience project was similar in size to the solicited requirement based on the number of full-time equivalents (FTEs) involved, but there is no explanation of why that number of FTEs is similar to the solicited effort. See *id.* at AR 0449. Similarly, the TET report states that the reference's approximately \$12 million value over a 62-month period of performance is comparable to the value to the solicited effort, but there is no discussion of why the TET arrived at that conclusion.<sup>5</sup> See *id.*

Finally, the TET report recites that Strativia's third prior experience example had a value of \$1.7 million over a 14-month period of performance. See *id.* at AR 0448. There is no discussion, however, of whether and to what extent the TET concluded that the size of

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<sup>5</sup> The agency estimated the value of the requirement here at \$23,252,259 over a 60-month period of performance. See AR, Tab 5, Independent Government Cost Estimate at AR 0239.

that effort--whether based on value or other indicia--was similar to the requirement being procured here in determining that the effort was relevant.

Furthermore, the agency's response to the protester's allegations do not explain how, if at all, the agency reasonably considered the size of Strativia's prior experience efforts in determining that they were relevant to the requirement that is the subject of this procurement. Instead, the agency focuses almost entirely on the agency's consideration of scope, rather than size.<sup>6</sup> See *generally* Supp. Memorandum of Law at 3-5. As discussed above, however, the RFP contemplated consideration of both size and scope in assessing the relevancy of prior experience examples.

Simply put, the record does not demonstrate that the agency considered the size of Strativia's prior experience efforts in comparison to that of the solicited effort in a manner consistent with the evaluation criteria of the RFP. While we recognize that this procurement was conducted pursuant to the streamlined procedures of FAR subpart 16.5, we nonetheless apply the requirements as set forth in the solicitation. See, e.g., *Tantus Techs.*, *supra* at 8-9 (sustaining protest in task order competition where the agency did not adhere to the announced evaluation scheme in evaluating corporate experience and past performance); *Mission Essential Pers., LLC*, B-407474; B-407493, Jan. 7, 2013, 2013 CPD ¶ 22 at 6-7 (sustaining protest in task order competition where the agency's past performance evaluation was inconsistent with the solicitation). Because the record fails to demonstrate that the agency evaluated the size of Strativia's prior experience examples relative to the solicited requirement in making its relevancy determination, as required by the RFP, we conclude that the agency's evaluation of this factor was unreasonable and improper.

Our Office will not sustain a protest unless the protester demonstrates a reasonable probability that it was prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. *Raytheon Co.*, B-409651, B-409651.2, July 9, 2014, 2014 CPD ¶ 207 at 17. Here, we cannot say with certainty what the agency's conclusion would have been had it meaningfully evaluated the size of Strativia's prior experience examples. In that regard, we note that the RFP stated that prior experience was the most important evaluation factor and price was the least important evaluation factor.

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<sup>6</sup> For example, the TET report discusses the various warehouse property management tasks involved in each of Strativia's prior experience efforts. See AR, Tab 7, TET Report at 1-2. In that regard, with respect to the first submitted project, the TET noted that the proposal "demonstrated . . . that [Strativia had] effectively managed warehouse property management tasks by shipping, receiving, packing, crating, moving, storing, packaging, and labeling all equipment, as well as pickup and delivery service using forklifts, hand trucks, and carts. Strativia ensured materiel was stored appropriately and maintained effectively, utilizing bar codes and other measures to ensure items were effectively monitored, complied with all federal, state, and local laws pertaining to the use and disposal of hazardous materials and hazardous wastes from site activities." *Id.* at 1.

Thus, any potential downgrade in the evaluation of Strativia's proposal under the prior experience factor may alter the agency's source selection decision, particularly where Strativia's proposal also was lower-rated under other factors and the agency determined that the technical superiority of the protester's proposal did not warrant the associated price premium. See AR, Tab 10, SSA Decision Memorandum at AR 0479. In such circumstances, we resolve doubts regarding prejudice in favor of a protester since a reasonable possibility of prejudice is a sufficient basis for sustaining a protest. See *AT&T Corp.*, B-414886 *et al.*, Oct. 5, 2017, 2017 CPD ¶ 330 at 8.

Accordingly, we conclude that the protester has established the requisite competitive prejudice to prevail in a bid protest.

#### RECOMMENDATION

We recommend that the agency reevaluate proposals in a manner consistent with the discussion above and make a new source selection decision based on that reevaluation. Should the agency conclude that an offeror other than Strativia is in line for award, we recommend that the agency terminate the task order issued to Strativia for the convenience of the government, and issue the task order to that offeror, if otherwise proper. We also recommend that the agency reimburse the protester the costs of filing and pursuing its protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester should submit its certified claims for costs, detailing the time expended and cost incurred, directly to the contracting agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Edda Emmanuelli Perez  
General Counsel