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Decision

Matter of: Magellan Federal

File: B-422273

Date: February 21, 2024

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Captain Blaine L. Hutchison, Department of the Army, for the agency.
Michelle Litteken, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging evaluation of the offerors' proposals is dismissed where protester's allegations are based on speculation and conjecture and are legally and factually insufficient to establish valid bases of protest.

DECISION

Magellan Federal, of Arlington, Virginia, protests the award of a contract to Dynamic Systems Technology, Inc. (DysTech), of Fairfax, Virginia, under request for proposals (RFP) No. W91QVN-23-R-0068, issued by the Department of the Army for military human resources services to support Army soldiers, dependents, civilians, and retirees in South Korea. The protester challenges the agency's evaluation of the offerors' technical proposals, the price evaluation, and the award decision.

We dismiss the protest.

BACKGROUND

The Army issued the solicitation on August 9, 2023, pursuant to the procedures of Federal Acquisition Regulation (FAR) part 12, seeking a contractor to provide military human resource services for soldiers, command-sponsored dependents, civilian employees, and retirees assigned to the Army in the Republic of Korea. Req. for Dismissal, exh. 1, RFP at 1, 50; Protest, exh. 11, Performance Work Statement (PWS)

at 2.¹ The solicitation contemplated the award of a firm-fixed-price contract with a 60-day phase-in period, 10-month base period, and two 12-month option periods. PWS at 2-3.

The solicitation established that award would be made on the basis of a best-value tradeoff considering three factors, listed in descending order of importance: technical, past performance, and price. RFP at 54. The solicitation provided that the nonprice factors, when combined, were significantly more important than price. *Id.* The solicitation explained that the technical factor consisted of the following equally weighted subfactors: personnel qualification, technical approach, staffing plan,² and prior experience.³ *Id.*

As relevant here, for the personnel qualification subfactor, the RFP required offerors to provide a resume and letter of commitment for each key personnel position. RFP at 54. The PWS identified seven key personnel positions and the minimum qualifications for each. PWS at 51-52. For example, the PWS explained that the senior transition analyst must have at least 5 years of experience in military human resource transition services within the last 10 years and have working knowledge of the agency's transition processing system and a web-based system for performing personnel actions, identified as eMILPO. *Id.* at 51.

With respect to the price evaluation, the solicitation established that the Army would evaluate proposals for completeness, price reasonableness, and unbalanced pricing. RFP at 58. The RFP stated that the total evaluated price would include the base period, option periods, and the option to extend services period provided by FAR clause 52.217-8. *Id.* The solicitation explained that the agency would evaluate the option to extend service period by adding one half of the offeror's proposed price for the final option period to the offeror's total proposed price. *Id.*

The Army received and evaluated five timely proposals, and it selected DysTech's

¹ With the exception of the RFP, the exhibits submitted by the parties are not paginated. We cite those documents using the Adobe PDF page number.

² The staffing plan subfactor consisted of the following equally important elements: organization chart; recruitment, development, retention, and training plan; and phase-in plan. RFP at 55.

³ The solicitation stated that the agency would use the following adjectival ratings in the technical evaluation: outstanding, good, acceptable, marginal, and unacceptable. RFP at 56. As relevant here, the solicitation defined an outstanding rating as "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," and it defined a good rating as "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." *Id.*

proposal for award. Req. for Dismissal, exh. 2, Unsuccessful Offeror Notice at 1. The Army notified Magellan that its proposal was unsuccessful on December 4, 2023, and subsequently provided the protester with a written debriefing.⁴ *Id.*; Protest, exh. 7, Debriefing. In the debriefing, the contracting officer wrote: “it was my decision that the proposal submitted by Dynamic Systems Technology, Inc. (DysTech) represented the best overall value to the government. DysTech had the highest ratings of all offerors on both Technical and Past Performance Evaluation Factors. DysTech also had the lowest total evaluated price.” Protest, exh. 7, Debriefing at 2.

After receiving the debriefing, the protester submitted several questions about the agency’s evaluation of the awardee’s and Magellan’s proposals and the bases for the adjectival ratings that were assigned to each proposal under the technical subfactors.⁵ Protest, exh. 8, Debriefing Questions. In its response, the Army stated that it had reevaluated the offerors’ technical proposals and was now adjusting the ratings. Req. for Dismissal, exh. 3, Agency Debriefing Resp. at 2. The results of the initial evaluation and corrective action evaluation of Magellan’s proposal are shown below.

	Initial Evaluation	Revaluation
Technical	Good	Outstanding
Personnel Qualification	Good	Good
Technical Approach	Good	Outstanding
Staffing Plan	Good	Outstanding
Organization Plan	Good	Outstanding
Recruitment, Development, Retention, & Training Plan	Acceptable	Good
Phase-in Plan	Good	Outstanding
Prior Experience	Good	Outstanding
Past Performance	Substantial Confidence	Substantial Confidence
Relevancy	Very Relevant	Very Relevant
Quality Assessment	Acceptable	Acceptable
Total Evaluated Price	\$14,497,931	\$14,497,931

⁴ The letter to the protester explained that the evaluated price included the option to extend services period and did not include the contract line item numbers for housing, travel, and estimated war hazards losses, all of which were cost-reimbursable line items. Req. for Dismissal, exh. 2, Unsuccessful Offeror Notice at 1.

⁵ For example, the protester wrote: “The Government noted that Magellan’s proposal lacked any significant weaknesses or deficiencies. Were any weaknesses or deficiencies noted? If so, were they a factor in Magellan receiving a ‘Good’ and not ‘Outstanding’ rating for any of the four subfactors? If so, which ones?” Protest, exh. 8, Debriefing Questions at 2.

Req. for Dismissal, exh. 2, Unsuccessful Offeror Notice at 2; Req for Dismissal, exh. 3, Agency Debriefing Resp. at 4. After the reevaluation, the ratings assigned to the offerors' proposals and the evaluated prices were as follows.

	Magellan	DysTech
Technical	Outstanding	Outstanding
Personnel Qualification	Good	Good
Technical Approach	Outstanding	Outstanding
Staffing Plan	Outstanding	Outstanding
Organization Plan	Outstanding	Outstanding
Recruitment, Development, Retention, & Training Plan	Good	Good
Phase-in Plan	Outstanding	Outstanding
Prior Experience	Outstanding	Outstanding
Past Performance	Substantial Confidence	Substantial Confidence
Relevancy	Very Relevant	Very Relevant
Quality Assessment	Acceptable	Acceptable
Total Evaluated Price	\$14,497,931	\$13,506,140

Req for Dismissal, exh. 3, Agency Debriefing Resp. at 4.⁶

The Army determined that the results of the reevaluation did not change the award decision because the proposals were equally rated under the nonprice factors, and DysTech proposed a lower price. *Id.*

After receiving the results of the reevaluation, DysTech filed this protest.

DISCUSSION

The protester challenges the agency's evaluation of the offerors' technical proposals, the price evaluation, and the award decision. First, with respect to DysTech's proposal, Magellan hypothesizes that DysTech likely proposed to staff a key personnel position with an individual who did not meet the PWS's requirements. Protest at 3. Second, the protester argues that the Army's identification of errors during the reevaluation of the offerors' proposals "raises serious concerns" about whether the agency conducted a reasonable and consistent evaluation. *Id.* at 4. Third, Magellan contends that, given the errors discovered in the reevaluation, "it is possible (and perhaps likely)" that the Army conducted an inconsistent price evaluation. *Id.* at 6. Finally, the protester asserts that the award decision cannot stand because of these alleged evaluation errors. *Id.* at 6-7.

⁶ The reevaluation resulted in one change to the evaluation of DysTech's proposal--the rating for the prior experience subfactor changed from good to outstanding. Req for Dismissal, exh. 3, Agency Debriefing Resp. at 4.

Before the deadline to submit the agency report, the Army filed a request for dismissal, arguing that the protest was factually and legally insufficient. Req. for Dismissal at 1. The Army argues that the protester's allegation concerning DysTech's proposed key personnel relies on speculation and is therefore insufficient. *Id.* at 7-8. The Army contends that the protester's other allegations should be dismissed because the protester fails to allege any error or violation of a procurement law or regulation, and because these arguments are also speculative. *Id.* at 8-12.

The protester responds by submitting a "sworn statement" from an employee of Magellan to support its allegation concerning the qualifications of DysTech's proposed key personnel.⁷ Protester's Resp. to Req. for Dismissal at 2. Magellan does not meaningfully respond to the agency's arguments concerning the sufficiency of the other protest grounds.⁸ See *generally* Protester's Resp. to Req. for Dismissal. For the reasons discussed below, we find that Magellan has not stated legally and factually sufficient protest grounds.

DysTech's Proposed Key Personnel

The protester, relying on its experience working with DysTech, contends that DysTech must have proposed a specific employee as its senior transition analyst; that this individual does not satisfy the PWS's experience requirements; and that DysTech's proposal should have been deemed ineligible for award. Protest at 3. The protester states that this allegation is based on Magellan's "information and belief." *Id.* at 2.

We dismiss, for failing to state a valid basis of protest, Magellan's allegation that DysTech proposed an unqualified individual for a key personnel position. Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. §§ 21.1(c)(4) and (f). Where a protester relies on bare assertions, without further supporting details or evidence, our Office will find that the protest ground amounts to no more than speculation and does not meet the standard contemplated by our regulations for a legally sufficient protest. *Chags Health Info. Tech., LLC*, B-420940.3 *et al.*, Dec. 14, 2022, 2022 CPD ¶ 315 at 5-6 (dismissing arguments that relied solely on the protester's speculation); *Davis Def. Grp., Inc.*, B-417470, July 11, 2019, 2019 CPD ¶ 275 at 3 n.2 (dismissing allegations that relied on information and belief). Here, in its initial protest, Magellan speculates about whom DysTech may have proposed as its senior transition analyst.

⁷ Although the protester referred to the document as a "sworn statement," it was not signed by the employee. Protester's Resp. to Req. for Dismissal, exh. 1, Employee Decl. at 2.

⁸ The protester restates its allegation that the reevaluation demonstrated there were errors in the initial evaluation, and the protester reiterates that scrutiny of the record is needed. Protester's Resp. to Req. for Dismissal at 6.

Magellan's submission of an employee statement in response to the agency's request for dismissal does not change our analysis. As a procedural matter, our regulations do not contemplate the piecemeal presentation or development of protest issues through later submissions citing examples or providing alternate or more specific legal arguments missing from earlier general allegations of impropriety. *DPR, Inc.--Recon.*, B-421592.2, Nov. 7, 2023, 2023 CPD ¶ 252 at 6. The piecemeal presentation of evidence, information, or analysis supporting allegations previously made is prohibited. *E.g., Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 3-4 (protest ground filed without supporting evidence was dismissed as failing to state a valid basis of protest; the subsequent filing of an employee declaration did not cure the insufficiency of the unsupported protest ground). In any event, the employee statement does not provide any support for Magellan's speculative arguments; indeed, in the statement the protester "seeks to determine *whether* [this person] was featured by DysTech in [its] technical proposal" for the position for which she allegedly does not qualify. Protester's Resp. to Req. for Dismissal, exh. 1, Employee Decl. at 2 (emphasis added). The fact remains that Magellan is speculating about who DysTech proposed. *Peraton, Inc.*, B-420919.2, B-420919.3, Dec. 8, 2022, 2022 CPD ¶ 312 at 5 n.5 (dismissing protest allegation supported by employee declaration as legally insufficient). Accordingly, we dismiss this allegation.

Other Evaluation Challenges

Magellan broadly questions the reasonableness of the technical evaluation by pointing to the changes the Army made during the reevaluation and questioning whether there might have been other errors that the agency failed to identify. Protest at 5. Magellan states:

With such an extensive list of errors, Magellan is left wondering what happened with the original evaluation of proposals. Why were these errors not identified sooner? Further, given the number of errors, it is reasonable to assume that still other errors were made that were not caught by the Government during its reevaluation.

Id. The protester does not dispute any of the underlying findings that resulted in any of the adjectival ratings assigned to its proposal. The protester does not challenge any of the ratings that were assigned in the reevaluation. Instead, Magellan hypothesizes and speculates that something *could* have gone awry in the Army's reevaluation.

As stated above, our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds be legally sufficient. 4 C.F.R. §§ 21.1(c)(4) and (f). A protester has the burden of presenting sufficient evidence to establish its position. *GovernmentCIO, LLC*, B-418363 *et al.*, Mar. 10, 2020, 2020 CPD ¶ 102 at 11. Further, a protester's unsupported allegations do not meet that burden, and our Office will not conduct an investigation to establish the validity of a protester's speculative statements. *Id.*

Here, Magellan has not presented any evidence to establish its position. Without any support for its allegations, we cannot infer as Magellan urges, that the apparent evaluation errors in the initial evaluation are symptomatic of a broader unreasonable evaluation. The protester's conjecture in this regard is insufficient to meet our Office's standards for pleading, and the allegation is therefore dismissed. *Castro & Co., LLC*, B-415508.10, June 11, 2019, 2019 CPD ¶ 215 at 6.

For similar reasons, we dismiss Magellan's protest of the price evaluation. Magellan complains that the Army may have misevaluated the offerors' price proposals because the evaluated price provided in the debriefing (\$14,497,931) differed from the total price that Magellan proposed (\$13,295,306). Protest at 6. However, as the protester acknowledges in the protest--and as the agency explained in the unsuccessful offeror notice--adding the price for the option to extend services period to the protester's total proposed price and subtracting the contract line items for housing, travel, and estimated war hazards losses results in an evaluated price of \$14,497,931. Protest at 6; Req. for Dismissal, exh. 2, Unsuccessful Offeror Notice at 1. The protester asserts that these calculations are complicated and states "it is reasonable to question whether the Government conducted a consistent price evaluation." Protest at 6. These vague, unsupported, and speculative assertions are legally and factually insufficient. *GovernmentCIO, supra*. Accordingly, we dismiss Magellan's protest of the price evaluation.

Award Decision

Finally, Magellan contends that the agency's award was unreasonable because it was based on flawed technical and price evaluations. Protest at 6-7. This allegation is derivative of the protester's challenges to the agency's evaluation, all of which we have dismissed. Thus, we dismiss this allegation because derivative allegations do not establish independent bases of protest. *Emagine IT, Inc.*, B-420202, B-420202.2, Dec. 30, 2021, 2022 CPD ¶ 20 at 14.

The protester also complains that it is unclear from the Army's response to Magellan's debriefing questions whether the Army made a proper best-value tradeoff determination after the reevaluation. Protest at 6. We find the protester's unsupported assertion of improper agency action, based solely on the fact that the agency did not explain the agency's tradeoff decision to the protester, does not satisfy the requirements of our regulations. *Worldwide Language Res., Inc.*, B-418767.5, July 12, 2022, 2022 CPD ¶ 180 at 14 (dismissing as factually and legally insufficient the protester's assertion that the agency failed to make a rational best-value tradeoff because the agency provided no evidence of such as part of the debriefing); *CAMRIS Int'l, Inc.*, B-416561, Aug. 14, 2018, 2018 CPD ¶ 285 at 5 (same).

The protest is dismissed.

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General Counsel