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Decision

Matter of: Logistics Systems, Inc.

File: B-423242.4

Date: July 10, 2025

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DIGEST

1. Protest challenging the scope of the agency's corrective action is denied where the agency reasonably concluded that issuing a solicitation amendment, conducting discussions, and requesting proposal revisions was necessary to ensure a fair competition and address reasonable agency concerns.
 2. Protest contending the agency failed to conduct adequate discussions is dismissed as premature when raised during discussions and prior to award.
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DECISION

Logistics Systems, Inc. (LSI), a small business of Alexandria, Virginia, protests the scope of the Department of the Air Force's corrective action, following the firm's prior protest challenging the issuance of a task order to Epsilon, Inc., a small business of Weaverville, North Carolina, under fair opportunity proposal request (FOPR) No. FA800325R0006, issued by the Air Force, for enterprise data engineering services. The protester contends that the agency's corrective action, which includes conducting discussions and soliciting revised proposals, is unreasonable and contrary to law and regulation, or, in the alternative, the Air Force failed to conduct meaningful discussions.

We deny the protest.

BACKGROUND

The agency issued the FOPR on October 3, 2024, to firms holding contracts under the General Services Administration's Veterans Technology Services 2 (VETS 2) multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contract, pursuant to the procedures of Federal Acquisition Regulation (FAR) part 12 (Acquisition of Commercial Products and Commercial Services) and subpart 16.5 (Indefinite-Delivery Contracts). Agency Report (AR), Tab 3, FOPR at 3.¹ The solicitation anticipated the issuance of a single fixed-price task order, with a 1-year base period of performance. *Id.* at 58. The contemplated task order seeks enterprise data engineering services, specifically, data acquisition, engineering, governance, machine learning model development, and artificial intelligence governance services. *Id.* at 7.

The solicitation advised that award would be made on best-value tradeoff basis, using a two-phased evaluation. *Id.* at 120. During the first phase, the agency would consider proposals under the technical factor, which consisted of two subfactors:

(a) demonstrated relevant experience; and (b) technical approach. *Id.* at 120.

Following its evaluation under the technical factor, the Air Force would issue advisory notifications to inform each offeror of the likelihood of award, based on the phase one evaluation results, and asked firms to identify whether they would participate in phase two of the competition. Contracting Officer's Statement (COS) at 5. Following the submission of phase two proposals, the agency would conduct its phase two evaluation, which consisted of an evaluation under the management factor--which included (a) staffing plan subfactor, and (b) risk management plan subfactor--and price. FOPR at 120. In making its best-value tradeoff determination, the solicitation advised that the agency would "conduct a holistic assessment" of all factors.² *Id.* at 121. Further, and as relevant to the protest, the FOPR explained that it was the Air Force's intent to make "award without [conducting] interchanges with offerors[,] but that "should interchanges

¹ All citations to the record are to the corresponding electronic document page numbers.

² Concerning the weighting of the factors and subfactors, the solicitation explained:

Among the non-price factors, Factor 1 is more important than Factor 2; within Factor 1, Sub-Factor 1.1 is more important than Sub-Factor 1.2; and within Factor 2, Sub-Factor 2.1 is more important than Sub-Factor 2.2. When combined, the non-price factors (Factor 1 and Factor 2) are more important than the price factor (Factor 3). When the combination of non-price factors becomes more equal within Phase II, the reviewed price will rise in importance and may become the salient factor in determining the best value Offeror.

FOPR at 120.

be necessary, the Government reserves the right to conduct them with one, some, or all the offerors at its discretion.”³ *Id.* at 120.

Three offerors, to include LSI and Epsilon, submitted phase one and two proposals. COS at 5. Following its phase two evaluation, the Air Force, on December 13, selected LSI as the representing the best value to the agency. *Id.* at 6. On December 20, Epsilon filed a protest with our Office, challenging the Air Force’s evaluation of proposals and best-value decision. Epsilon also argued the agency’s interchanges with Epsilon constituted discussions, and that these discussions were not meaningful. Our Office dismissed Epsilon’s protest as academic, based on the agency’s decision to undertake corrective action, which included amending the solicitation, soliciting revised proposals, and making a new award decision. *Epsilon Inc.*, B-423242, Jan. 7, 2025 (unpublished decision).

The Air Force, as part of its corrective action, requested and evaluated revised phase two proposals; the agency determined Epsilon to represent the best value to the agency following its reevaluation. AR, Tab 19, Post-Corrective Action Award Decision Document at 3. On February 10, 2025, LSI filed a protest with our Office, contending the agency failed to undertake meaningful discussions, failed to reasonably evaluate proposals, and conducted a flawed best-value tradeoff. Following the production of the agency’s report, LSI filed supplemental protest allegations, arguing, among other things, that Epsilon’s proposal failed to comport with material solicitation requirements. On April 3, our Office dismissed LSI’s protest, based on the agency’s intention to take corrective action. *Logistics Systems, Inc.*, B-423242.2, B-423242.3, Apr. 3, 2025 (unpublished decision). The Air Force explained its corrective action would include a reevaluation of proposals, a new comparative analysis of proposals, and the issuance of a new best-value determination. AR, Tab 27, Notice of Corrective Action (B-423242.2, B-423242.3) at 1. The Air Force’s notice of corrective action also explained that the agency “may also take any other corrective action that it deems appropriate.” *Id.*

In undertaking its corrective action on LSI’s protest, the agency prepared a memorandum explaining its rationale. The Air Force stated it would issue an amendment to the solicitation (amendment 03), which would: (a) extend the period of time for which the agency could accept offers, as the initial period had lapsed; (b) change the period of performance to account for new estimated start and end dates (as a result of prior protests); (c) issue interchange notices (INs) with offerors; and (d) request revised phase two proposals. AR, Tab 31, Explanation of Amend. 03 at 1-2. On April 8, the Air Force issued amendment 03 to the FOPR and provided offerors with

³ Interchanges were defined as “informal interaction between the [contracting officer] and the offerors to address aspects of the proposal, which may be necessary for technical elements, price, to deal with contract documentation, or other proposal-related matter in the evaluation process.” FOPR at 120.

INs that identified material issues and/or significant weaknesses in their respective phase two proposals. COS at 8. LSI filed the instant protest on April 11.⁴

DISCUSSION

LSI marshals two primary challenges to the agency's corrective action. First, the protester contends the agency's decision to open discussions and solicit revised proposals is unreasonable, and contrary to law and regulation. In this regard, LSI argues the agency's corrective action is unnecessarily broad; in the protester's view, the Air Force should have simply reevaluated existing proposals, rather than conducting discussions. In the alternative, the protester contends that even if discussions are appropriate, the agency's current discussions are not meaningful, where the INs provided to LSI did not address several negative discriminators identified by the agency in its prior evaluation. For the reasons that follow, we find no basis to sustain the protest.⁵

Corrective Action

LSI posits that the Air Force erred in opening discussions and soliciting revised proposals as part of its corrective action. The protester contends the agency had no reasonable basis to do so, as the flaws that prompted the agency to take corrective laid solely in the agency's evaluation of Epsilon's proposal. As such, the only reasonable corrective action, LSI argues, was for the Air Force to reevaluate existing proposals, not to conduct discussions and solicit new proposals. In the protester's view, any other course of action would be fundamentally unfair, where the agency released information relating to LSI's proposal (and the Air Force's evaluation of such) through prior debriefings. Protest at 10-14; Comments at 4-13. In response, the agency argues its corrective action was reasonable, given the issues identified by the contracting officer and as raised in prior protests. Memorandum of Law (MOL) at 7-14.

Contracting officials have broad discretion to take corrective action where the agency determines that such action is necessary to ensure a fair and impartial competition. *MSC Indus. Direct Co., Inc.*, B-411533.2, B-411533.4, Oct. 9, 2015, 2015 CPD ¶ 316 at 5. As a general matter, the details of a corrective action are within the sound discretion and judgment of the contracting agency, and we will not object to any particular corrective action, so long as it is appropriate to remedy the concern that caused the agency to take corrective action. *Id.* This standard permits the agency

⁴ The anticipated value of the task order here exceeds \$10 million. Accordingly, this protest is within our Office's task order jurisdiction to resolve protests involving task orders issued under IDIQ contracts established pursuant to the authority in title 41 of the United States Code. 41 U.S.C. § 4106(f)(1)(B).

⁵ LSI raises other collateral allegations, and although our decision does not specifically address every argument presented, we have considered each argument and find that none provides a basis on which to sustain the protest.

discretion to determine how to appropriately remedy its reasonable concerns, absent a showing that this discretion is being abused in some way. *360 IT Integrated Solutions; VariQ Corp.*, B-414650.19 *et al.*, Oct. 15, 2018, 2018 CPD ¶ 359 at 6.

As noted above, the agency's corrective action, in response to LSI's initial protest, included issuing amendment 03 to the solicitation, providing INs to offerors, soliciting revised proposals, evaluating those revised proposals, and undertaking a new best-value determination. AR, Tab 31, Explanation of amend. 03 at 1-2. The Air Force explained that such action was necessary for three reasons. First, under the existing terms of the solicitation, the period of acceptance for offers had lapsed. *Id.* at 1 (noting that under the existing 120-day window, the period of acceptance lapsed on March 22, 2025). As such, the Air Force's solicitation amendment extended the period of acceptance to 180 days. See AR, Tab 32, amend. 03 to FOPR at 2. Second, because of delays caused by prior protests, the period of performance stated in the FOPR did not accurately reflect the agency's needs. AR, Tab 31, Explanation of amend. 03 at 1-2. Accordingly, the Air Force, through amendment 03, revised the period of performance start and end dates. AR, Tab 32, amend. 03 to FOPR at 3. Third, the Air Force explains that in response to prior protests from both LSI and Epsilon, the agency would issue INs to allow offerors to resolve significant identified proposal issues. AR, Tab 31, Explanation of amend. 03 at 1-2.

First, contrary to the protester's suggestion otherwise, an agency's corrective need not be "narrowly tailored" to remedy an identified procurement defect, but instead, as our prior decisions have explained, an agency's corrective action must be reasonable and appropriate to remedy the concern that caused the agency to take corrective action. See *MSC Indus.*, *supra*. Indeed, similar to the above standard utilized by GAO, the United States Court of Appeals for the Federal Circuit rejected the application of a "narrowly targeted" standard for reviewing an agency's corrective action, and instead concluded that the appropriate standard of review is the Administrative Procedure Act's (APA) highly deferential "rational basis" standard, which requires only that the contracting agency provide a coherent and reasonable explanation of its exercise of discretion.⁶ *Dell Fed. Sys., L.P. v. United States*, 906 F.3d 982, 994-995 (Fed. Cir.

⁶ We reject the protester's assertion that the Supreme Court's recent decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412-413 (2024), mandates the application of a different standard. The Federal Circuit's rejection of a requirement for "narrowly tailored" corrective action was rooted in that court's application of the APA's internal review standard, namely, that "a reviewing court shall set aside the agency action if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *Dell Fed. Sys.*, 906 F.3d at 944; see also 5 U.S.C. § 706(2)(A). The Supreme Court's decision in *Loper Bright*, on the other hand, dealt with the resolution of statutory ambiguities and the deference federal courts should afford to agencies' interpretation of such. Such analysis is wholly inapplicable to the situation in *Dell Federal* or to the facts of this protest. Accordingly, we find no basis to agree with the protester's assertion that "a narrowly targeted standard may well apply to Agency corrective action." Protest at 12.

2018). Accordingly, even if we were to agree with the protester that the “procurement flaw” for which the agency’s corrective action was aimed at remedying was an unreasonable evaluation of proposals, as LSI alleges, we reject the protester’s assertion that the Air Force’s corrective action was required to be “narrowly tailored” to only conducting a reevaluation of proposals, as opposed to allowing for interchanges and revised proposals.

Second, the protester fails to establish how the agency’s decision to open discussions and solicit revised proposals competitively prejudices LSI. 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.

Here, the protester argues the firm would be competitively harmed by the agency’s opening of discussions due to the agency’s prior disclosure of procurement-related information. See Protest at 12 (“The prior disclosure of protester/prior awardee information and the harm to the competitive process outweighs the agency’s desire to open discussions or request revised proposals when such action is not reasonably necessary to remedy the procurement defect.”). However, the protester fails to identify what, if any, competitively useful information has previously been disclosed. Indeed, the record demonstrates that as a result of Epsilon’s initial protest (B-423242.1), the only information concerning LSI’s proposal (and the agency’s evaluation of such) came by way of the agency’s debriefing to Epsilon, which only identified LSI’s overall factor 1 and 2 ratings, and its total evaluated price. See B-423242.1, Protest, exh. H, Epsilon Debriefing.

We have previously concluded that merely because general information related to a prior awardee’s evaluation is released pursuant to a debriefing, an agency’s decision to open discussions and solicit revised proposals is not rendered unreasonable. See *AB Int’l Servs., LLC*, B-419727.2, Aug. 25, 2022, 2022 CPD ¶ 224 at 5; *Environment Quality Mgmt., Inc.*, B-402123.4, B-402123.6, Aug. 31, 2010, 2010 CPD ¶ 79 at 4. Indeed, a request for revised proposals is not improper merely because the awardee’s price has been previously exposed. *Laducer & Associates, Inc.*, B-401735.3, Feb. 23, 2010, 2010 CPD ¶ 57 at 4; *Strand Hunt Constr., Inc.*, B-292415, Sep. 9, 2003, 2003 CPD ¶ 167 at 6. Here, where the protester fails to identify specific information disclosed to Epsilon that would harm LSI’s competitive position during the agency’s reevaluation, we cannot conclude LSI would be prejudiced by the agency’s decision to open discussions and solicit revised proposals.⁷

⁷ We also note that LSI’s argument concerning competitive harm is undercut by the fact that LSI, as a result of its debriefing on its prior protest, received the same information Epsilon received during its debriefing--Epsilon’s overall factor ratings and total evaluated price. B-423242.2, B-423242.3, Protest, exh. 1, LSI Debriefing at 1.

Third, we find no basis to conclude that the agency's proposed corrective action is otherwise unreasonable. As noted above, three findings serve as the basis for the Air Force's corrective action. The first two--that, as a result of previous protests, the proposal acceptance deadline had lapsed, and the truncated period of performance did not reflect the agency's needs--in our view, reasonably necessitates the submission of revised proposals because these bases reflect material changes to the FOPR. Indeed, our Office has explained, for example, that a contract's period of performance is generally a material solicitation requirement and if that requirement changes, the agency must issue an amendment and afford all offerors an opportunity to compete for its changed requirements. *Lumen Techs. Gov't Sols., Inc.*, B-420945 *et al.*, Nov. 16, 2022, 2022 CPD ¶ 301 at 12. Given the agency's need to modify the solicitation, in this manner, we find no basis to conclude the agency's decision to solicit proposal revisions was unreasonable.

The agency's third basis for its proposed corrective action concerns its decision to enter into interchanges and issue INs. AR, Tab 31, Explanation of amend. 03 at 1-2. As mentioned in the agency's explanation for issuing amendment 03, and as further explained in the Air Force's memorandum of law, both offerors, in their respective prior protests, challenged the adequacy of the agency's discussions. While the Air Force believed, as a factual matter, that no discussions had taken place, the agency recognized the potential risk that our forum might disagree. See MOL at 12.

Accordingly, in order "to reduce or eliminate the risk that LSI would once again protest on the ground that the Air Force did not conduct proper discussions and thereby reduce the risk of an adverse determination by GAO, and to comply with LSI's request for fair discussions, the Air Force issued Interchange Notices with all Phase II offerors as part of its corrective action." MOL at 13. Where an agency has reasonable concerns that there may be errors in the procurement, the agency may take corrective action, even if it is not certain that a protest of the procurement would be sustained. See *Main Bldg. Maint., Inc.*, B-279191.3, Aug. 5, 1998, 98-2 CPD ¶ 47 at 3. As noted above, we will not object to the specific proposed corrective action, so long as it is appropriate to remedy the concern that caused the agency to take corrective action. *MSC Indus., supra*, at 5. This protest allegation is denied.

Conduct of Discussions

LSI also argues the agency's discussions were flawed and not meaningful, where the Air Force identified several "negative discriminators" in its prior evaluation, yet, failed to raise these matters in the INs provided to LSI. Protest at 15; see Comments at 13-18. However, as our prior decisions have explained, protest allegations brought during discussions that amount to allegations of unequal or other than meaningful discussions are generally premature. See, e.g., *Sikorsky Aircraft Corp.*, B-416027, B-416027.2, May 22, 2018, 2018 CPD ¶ 177 at 9; *Northrop Grumman Tech. Servs., Inc.*, B-404636.11, Jun. 15, 2011, 2011 CPD ¶ 121 at 4; *Intermarkets Global*, B-400660.10, B-400660.11, Feb. 2, 2011, 2011 CPD ¶ 30 at 4-5; *Computer Associates International, Inc.*, B-292077.2, Sept. 4, 2003, 2003 CPD ¶ 157 at 4. If the agency takes concrete

action in the future that properly forms the basis for a valid protest, LSI may file a protest with our Office at that time, consistent with our Office's regulations.⁸ See *Sikorsky Aircraft Corp.*, *supra*, at 9 (challenge to agency's conduct of discussions is premature when raised prior to award and during discussions).

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁸ While premature at this juncture, we do note the record does not appear to support the core of LSI's allegations. First, although the protester chafes that the Air Force did not issue INs concerning LSI's number and variety of subcontractors, and its staffing of core task levels (Protest at 15), the record evidences that these items were not "negative discriminators" (as suggested by the protester), nor were they mentioned in the agency's prior tradeoff analysis. AR, Tab 19, Post-Corrective Action Award Decision Document at 3. Second, the record demonstrates that the agency's IN issued during the corrective action concerning LSI's planned locations to perform classified work leads the protester to the areas of its proposal requiring revision based on the prior evaluation finding. *Abacus Tech. Corp.*; *SMS Data Prods. Grp., Inc.*, B-413421 *et al.*, Oct. 28, 2016, 2016 CPD ¶ 317 at 7 (explaining that an agency need not "spoon-feed" offerors, but instead, lead offerors into the areas of their proposals that require amplification or revision). Third, and related to why the argument is premature, it remains unclear how LSI would be prejudiced by the agency's actions. Proposal revisions, as part of the agency's corrective action, are unfettered; LSI may apply the information it learned as part of its debriefing to modify or improve its proposal. See AR, Tab 23, Closing of LSI's Debriefing at 2-3 (identifying the very elements identified by the agency which the protester now complains were not sufficiently detailed in the Air Force's IN).