



Decision

Matter of: KE System Services, Inc.

File: B-423881; B-423881.2; B-423881.3

Date: December 22, 2025

William Huff for the protester.

Robert B. Neill, Esq., Susan Kim, Esq., Jonathan DeMille, Esq., Joshua Reyes, Esq., Department of the Army, for the agency.

Jungi Hong, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protester is not an interested party to challenge evaluation and eligibility of the awardee where protester's proposal was found technically unacceptable in a lowest-priced, technically acceptable competition, protester does not challenge the evaluation of its proposal as unacceptable, and there is another technically acceptable offeror that would be in line for award.

DECISION

KE System Services, Inc. (KE), a small business of Cypress, Texas, protests the award of a contract to Xenturis, LLC, a small business of Missoula, Montana, under request for proposals (RFP) No. W91151-25-R-A009, issued by the Department of the Army, United States Army Mission and Installation Contracting Command for kitchen hood preventative maintenance and services. The protester contends the agency improperly awarded the contract to Xenturis and requests the agency reevaluate proposals.

We dismiss the protest.

BACKGROUND

The agency issued the RFP on July 1, 2025, for the performance of a single indefinite-delivery, indefinite-quantity (IDIQ) contract for kitchen hood cleaning services, preventative maintenance, and repair. Req. for Dismissal (RFD), exh. 1, RFP at 1. The contract anticipates a 1-year base period followed by four 1-year option periods. *Id* at 2-4. The RFP established that the award would be made on a lowest-price, technically acceptable (LPTA) basis, considering three evaluation factors: technical

capability, past performance, and price. *Id.* at 7. The technical capability factor contained two subfactors. Subfactor 1 required copies of offerors' licenses and registrations, while subfactor 2 evaluated the prior experience of the prime or subcontractor. *Id.* Seven vendors, including KE and Xenturis, submitted final proposals by the July 21 closing date for receipt of proposals. Resp. to GAO Question at 1. The agency "evaluated all seven (7) proposals and deemed only two (2) of the proposals technically acceptable." *Id.* Relevant here, KE was not one of the two vendors evaluated as technically acceptable.¹ *Id.* The agency selected Xenturis's proposal for award at a price of \$3,124,980.00. RFD, exh. 5, Award Notice at 2.

On July 24, 2025, the Army notified KE of the award decision. RFD, exh. 4, Unsuccessful Offeror Notice at 1. The notice explained that KE's proposal was found to be unacceptable under the prior experience subfactor of the technical capability factor because KE's "evidence of experience did not meet the magnitude and scope of the Kitchen Hood Preventive Maintenance requirement." *Id.* On August 6, the contracting officer responded to the protester's request for a debriefing. RFD at 3. The protester subsequently submitted several follow-on questions to the contracting officer. *Id.* On August 27, the contracting officer concluded her correspondence with KE by stating that she was "concluding the debriefing process." RFD, exh. 9 at 2. Following another clarification request by KE, the contracting officer responded by email on September 3, stating that she found the "request for clarification redundant," and "[a]s stated in [the] last correspondence, this concludes the post-award debriefing." *Id.* This protest to our Office followed.²

DISCUSSION

The protester raises a number of allegations, but the gravamen of KE's challenge is that (1) the award decision was flawed because Xenturis independently lacked the required

¹ KE elected to proceed with its protest *pro se*, that is, without counsel. Accordingly, no protective order was issued. As such, we do not include protected information in this decision, and our discussion of some aspects of the evaluation is necessarily general in nature to avoid reference to non-public information. Citations are to redacted versions of the record.

² KE filed its protest in GAO's Electronic Protest Docketing System (EPDS) at 11:40 p.m. Eastern Time on September 3. Our Bid Protest Regulations provide that "[a] document is filed on a particular day when it is received in EPDS by 5:30 p.m., Eastern Time." 4 C.F.R. § 21.0(g). Thus, because the protest was filed after 5:30 p.m., it is considered to have been filed the next business day on September 4. KE then filed its first supplemental protest on September 11, as well as its second supplemental protest on November 25. Neither supplemental protest affects our conclusion that, as explained below, KE is not an interested party to protest.

experience or certifications as the prime contractor; and (2) the awardee should have been found not responsible.³ Protest at 4; 1st Supp. Protest at 1.

Interested Party

Under the bid protest provisions of the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. §§ 3551-3557, only an “interested party” may protest a federal procurement. Our regulations implementing CICA define an interested party as an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a)(1). Determining whether a protester is interested involves consideration of a variety of factors, including the nature of issues raised, the benefit of relief sought by the protester, and the protester’s status in relation to the procurement. *RELM Wireless Corp.*, B-405358, Oct. 7, 2011, 2011 CPD ¶ 211 at 2. Relevant here, a protester is not an interested party if it is ineligible to receive award under the protested solicitation, *Trailblazer Health Enters., LLC*, B-407486.2, B-407486.3, Apr. 16, 2013, 2013 CPD ¶ 103 at 14; *Acquest Dev. LLC*, B-287439, June 6, 2001, 2001 CPD ¶ 101 at 6, or if it would not be in line for award if the protest were sustained.⁴ *VSolvit, LLC*, B-418265.2, B-418265.3, July 30, 2020, 2020 CPD ¶ 259 at 6; *Cyberdata Techs., Inc.*, B-411070 *et al.*, May 1, 2015, 2015 CPD ¶ 150 at 9.

The agency requests dismissal, asserting that KE is not next in line for award, and therefore, is not an interested party to protest. According to the Army, the protester did not challenge the evaluation that found KE’s proposal to be technically unacceptable, and argues that KE failed to provide any evidence or support for its protest allegations.⁵ RFD at 8. KE opposes dismissal of the protest, maintaining that it is an interested party

³ The protester also challenges other aspects of the agency’s source selection decision. We do not address those allegations because, as discussed below, KE is not an interested party to protest.

⁴ An exception exists if there would be no other intervening offeror in line for award, then a protester found to be unacceptable is still an interested party to challenge the acceptability of the awardee on the theory that the agency will need to recompute the requirement if we sustain the protest. See *REEL COH Inc.*, B-418095, B-418095.2, Jan. 10, 2020, 2020 CPD ¶ 55 at 7. Here, the record reflects that the agency received seven proposals, of which two were evaluated to be technically acceptable--the awardee and one other offeror, and KE has not challenged the acceptability of the other offeror. Technical Evaluation Report at 1; Resp. to GAO Question at 1. The other technically acceptable offeror, therefore, is an intervening offeror that would be next in line for award. Consequently, the exception is inapplicable here.

⁵ The Army also contends the protest is untimely because, in its view, a “debriefing was not required for this award,” and that the “contracting officer’s actions did not extend the time file a protest.” RFD at 5. Because we find KE is not an interested party to protest, we do not address this argument.

because the awardee's eligibility is in question, despite the protester's technically unacceptable status. Resp. to RFD at 3.

Our review of the record confirms that KE's protest did not challenge the agency's evaluation of the firm's proposal as technically unacceptable. Protest at 1-4. Only in KE's September 22 response to the agency's request for dismissal does the protester now argue that the firm "could reasonably be found technically acceptable" upon reevaluation of its proposal and therefore "ha[ve] a substantial chance of receiving award," which would make it an interested party. Resp. to RFD at 3. This assertion, however, ignores the fact that the agency had, in the July 24 award notice, informed KE that the firm's proposal had been evaluated as technically unacceptable, and that KE did not challenge the evaluation of its own proposal in either the initial protest or the first supplemental protest. Protest; 1st Supp. Protest; Unsuccessful Offeror Notice.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. Under these rules, a protest based on other than alleged improprieties in a solicitation must be filed no later than 10 calendar days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Where a protester initially files a timely protest, and later supplements it with independent grounds of protest, the later-raised allegations must independently satisfy the timeliness requirements. *Savvee Consulting, Inc.*, B-408416.3, Mar. 5, 2014, 2014 CPD ¶ 92 at 5. Our regulations do not contemplate the unwarranted 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. *BluePath Labs, LLC--Costs*, B-417960.4, May 19, 2020, 2020 CPD ¶ 175 at 6. Our Office will dismiss a protester's piecemeal presentation of arguments that could have been raised earlier in the protest process. 4 C.F.R. § 21.2(a)(2); see, e.g., *American Roll-On Roll-Off Carrier Grp., Inc.*, B-418266.9 *et al.*, Mar. 3, 2022, 2022 CPD ¶ 72 at 11 n.12.

Here, even if we assume for the sake of argument that KE's September 4 protest was timely--which, as noted, we do not address--the protester's September 22 response to the agency's dismissal request is an untimely piecemeal presentation of arguments. In this regard, KE's challenge to the technical acceptability of its own proposal is raised, for the first time, only in KE's September 22 response to the agency's dismissal request. The protester's response, however, was filed more than 10 days after the September 3 email from the contracting officer to the firm, concluding any further post-award communications between KE and the agency.⁶ Thus, the protester's argument now, challenging the agency's evaluation of KE's proposal as technically unacceptable, is untimely and will not be considered. 4 C.F.R. § 21.2(a)(2); *American Roll-On Roll-Off Carrier Grp., Inc.*, *supra*.

⁶ There is no dispute that the unsuccessful offeror notice, issued on July 24, informed the firm that "KE System services proposal was rated Unacceptable" and "did not meet the technical requirement." Protest exh. 1, Award Notice at 1.

Consequently, even if we were to sustain the protester's challenges to the awardee, KE's proposal would still be technically unacceptable, and there was another acceptable offeror that would be in line for award if we sustained the protest. *Trailblazer Health Enters., LLC*, *supra* at 14. Here, because KE did not timely challenge the agency's evaluation that the firm's proposal was technically acceptable, KE is not an interested party to protest. *Savvee Consulting, Inc.*, *supra* at 5.

Inaccurate Legal Citations

Finally, in reviewing the protester's submissions to our Office, we identified a number of irregularities in the citations provided by KE. In some instances, we were unable to locate a decision that matched the citation provided by the protester, and decisions matching either the B-number or Comptroller General's Procurement Decisions (CPD) citation did not appear to state the principle for which the protester cited the decision. In others, we were unable to locate decisions matching either the B-number or CPD citation provided by the protester. The protester also cited what it represented to be direct quotations from certain decisions, but we were unable to locate those decisions using the citations provided. Further, while we were able to find decisions matching some aspects of the protester's citations, those decisions did not contain the quoted language.

Taking one example, the protester argues that our Office "has consistently held that a protester retains interested party status where the awardee's eligibility is in question, even if the protester was also downgraded," and cited the following purported decision of our Office: "*KAES Enters.*, B-420916.2, 2022 CPD ¶ _." Resp. to RFD at 3. Here, no record of such a decision exists. The B-number refers to an unpublished decision⁷ involving a different party, in which a protester asked the agency to reimburse the costs of filing and pursuing the protest. Moreover, our decisions resolving protests brought by the firm KAES Enterprises, LLC, have no relevance to KE's protest here.⁸

⁷ *The VISN Group, LLC--Costs*, B-420916.2, Oct. 20, 2022 (unpublished decision).

⁸ For the record, our Office has issued five published decisions with KAES Enterprises LLC: (1) *KAES Enters., LLC*, B-402050.4, Feb. 12, 2010, CPD ¶ 49 was a denial of a protest of a cancellation and a grant of a request for reimbursement of filing costs; (2) *KAES Enters., LLC*, B-407964, Apr. 23, 2013, CPD ¶ 183 concerned a challenge to the RFP's performance work statement; (3) *KAES Enters., LLC*, B-408366, Aug. 7, 2013, CPD ¶ 192 concerned an evaluation challenge of the awardee based on the limitation on subcontracting; (4) *KAES Enters., LLC*, B-407964.4, Aug. 21, 2013, CPD ¶ 196 was a denial of a protest alleging agency bad faith and bias in the procurement; and (5) *KAES Enters., LLC*, B-411225, *et al.*, June 18, 2015, CPD ¶ 186 was a denial of a protest challenging the RFPs as defective. Nothing in these five decisions is remotely germane to the instant protest.

KE's erroneous citations bear the hallmarks of the use of a large-language model or other artificial intelligence (AI) without adequate verification that the generated results were accurate. See e.g., *Oready, LLC*, B-423524.2, Aug. 13, 2025, 2025 CPD ¶ 194 at 5. As courts have explained, "there is nothing inherently wrong with . . . properly and competently utilizing AI or any of its subsets to practice law or litigate cases," but that "the evolving technology has many glitches (including hallucinations) and does not always work properly or as expected," and "[t]his is why close and careful attorney supervision, fact-checking, and citation-checking are absolute necessities when utilizing AI or any of its subsets." *Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enters., LLC*, No. 17-cv-81140, 2025 U.S. Dist. LEXIS 98418 at *11 (S.D. Fl. May 20, 2025).

In order to satisfy our statutory mandate to resolve protests expeditiously and to maintain our role as a meaningful, efficient protest forum, we expect all parties to prepare and present their cases carefully and diligently. *Wolverton Prop. Mgmt., LLC--Recon.*, B-415295.4, June 6, 2018, 2018 CPD ¶ 205 at 3.

The use of AI programs to draft or assist in drafting legal filings can result in the citation of non-existent decisions, such that reliance on those programs without review for accuracy wastes the time of all parties and GAO. *Raven Investigations & Sec. Consulting, LLC*, B-423447, May 7, 2025, 2025 CPD ¶ 112 at 4.

As we have explained, our Office necessarily reserves an inherent right to dismiss any protest and to impose sanctions against a protester, where a protester's actions undermine the integrity and effectiveness of our process. *Id.* Here, because we dismiss this protest because the protester is not an interested party, we do not exercise our right to impose sanctions for submission of non-existent citations. The protester, however, is advised that any future submission of filings to our Office with citations to non-existent authority may, after a review of the totality of the circumstances, result in the imposition of sanctions.

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel