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## Decision

**Matter of:** J&J Maintenance, Inc- dba J&J Worldwide Services

**File:** B-423821.2; B-423821.3

**Date:** April 20, 2026

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Lawrence P. Block, Esq., Elizabeth Leavy, Esq., and Michael Hill, Esq., Winston & Strawn LLP, for the protester.

Stephen P. Ramaley, Esq., Roger V. Abbott, Esq., Lauren S. Fleming, Esq., and Cash W. Carter, Esq., Miles & Stockbridge P.C., for King and George, LLC, the intervenor.

Tamar Gerhart, Esq., and Matthew R. Keiser, Esq., United States Army, Corps of Engineers, for the agency.

Michael Willems, 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 alleging that the awardee's proposal failed to meet material requirements of the solicitation is denied where either the agency's evaluation was reasonable or the protester failed to demonstrate any competitive prejudice arising from the agency's waiver or relaxation of solicitation requirements.

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### DECISION

J&J Maintenance, Inc., dba J&J Worldwide Services, of McLean, Virginia, challenges the issuance of a task order to King and George, LLC, of Fort Worth, Texas, by the Department of the Army, Corps of Engineers, under request for proposals (RFP) No. W912DY-25-R-LRMC issued pursuant to the Operation and Maintenance Engineering Enhancement indefinite-delivery, indefinite quantity (IDIQ) Multiple Award Task Order Contract (MATOC) for operation, maintenance, and facility management services at various Defense Health Agency facilities in Germany, Belgium, and Italy. The protester alleges that the awardee's proposal did not meet multiple material solicitation requirements and, therefore, should have been found ineligible for award.

We deny the protest.

## BACKGROUND

The agency issued the RFP on January 31, 2025, and contemplated the issuance of a single task order on a fixed-price basis with a 1-year base term, and two 1-year option periods. Agency Report (AR), Tab 2, RFP, at 1, 4. The solicitation provided that award would be made on the basis of a best-value tradeoff between two evaluation factors of equal importance: (1) technical/management approach; and (2) price. *Id.* at 8.

Relevant to this protest, the solicitation included several specific informational requirements for the technical/management approach factor. See AR, Tab 5, RFP attach. 2. For example, the solicitation required that offerors include an organizational chart that identified “on and offsite corporate, project management, administrative, technical, supervisory, trades personnel, and proposed subcontractors/service vendors.” *Id.* at 16. Similarly, the solicitation required offerors to provide a list of equipment and services, and required for each item that offerors “[l]ist the trade and/or specific subcontractor as applicable[,]” and should “[s]pecify in-house trade position(s), or indicate if outside subcontractor will be used (list company name, or refer to staffing plan chart/subcontractor list)[.]” *Id.* at 3. However, the solicitation also required offerors to provide a “sanitized” version of their proposals with all company names omitted, and those sanitized versions were the versions used by the agency technical evaluators. RFP at 7, Supp. Memorandum of Law (MOL) at 1-2.

Additionally, the underlying MATOC requires that, for work to be performed in Italy, offerors register for an anti-mafia screening “[w]hite [l]ist.” See, AR, Tab 11, K&G Discussion Letter at 2. The agency reiterated this requirement during discussions with the offerors explaining that the underlying MATOC contract specifically required, among other things, that offerors must initiate the registration process for the anti-mafia screening white list with a local government official called a prefect (or *prefetto*) prior to submitting a proposal. *Id.* The agency also explained that offerors must “include evidence of having initiated” this registration process with your proposal submission in response to the RFP. *Id.*

The agency received three timely proposals, and conducted two initial rounds of discussions, ultimately making award to K&G on August 12, 2025. MOL at 2. J&J protested that award with our Office raising protest grounds not at issue in the current protest; the agency subsequently took voluntary corrective action in response to that protest, and we dismissed the protest as academic. *J&J Maintenance, Inc., dba J&J Worldwide Services*, B-423821.1, Aug. 29, 2025 (unpublished decision). The agency then conducted a third, limited, round of discussions and made a new evaluation and source selection. MOL at 2. Following that corrective action, the agency again made award to K&G at a price of \$43,712,124.<sup>1</sup> This protest followed.

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<sup>1</sup> As the value of the issued task order exceeds \$35 million, this protest is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts that were awarded under the authority of title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B).

## DISCUSSION

J&J argues that the agency erred in making award to K&G because K&G's proposal allegedly contained several deficiencies.<sup>2</sup> Specifically, the protester argues that K&G's proposal failed to meet three material requirements of the solicitation. First, J&J notes that the terms of the underlying MATOC contract and the agency's instructions to offerors during discussions required that offerors initiate the registration process for the anti-mafia white list prior to final proposal submission by filing with the local prefect. Protest at 6-7. J&J argues that the record suggests that K&G did not actually file with the local prefect until the day following its final proposal submission, which means K&G's proposal did not meet this clearly stated requirement of the solicitation. *Id.* Next, the protester argues that K&G's proposal did not address specific requirements outlined in the solicitation concerning its organizational chart and its proposed equipment and services. Comments and Supp. Protest at 7-11. Specifically, the protester argues that the solicitation required offerors to name both their proposed staff and proposed subcontractors, and K&G's proposal did not include these required pieces of information. *Id.* J&J argues that this also should have resulted in the assessment of additional deficiencies that further rendered the awardee's proposal technically unacceptable. *Id.*

In response, the agency argues that the requirements the protester identified are not material requirements, and in any case, that the intervenor's proposal met the minimum requirements of the solicitation. MOL at 19-21; Supp. MOL at 2-8. Specifically, concerning the white list registration process, the agency argues that its instructions were simply that offerors were required to begin the process of getting on the white list before final proposal submission, and not that any specific steps by a date certain were required. MOL at 19-21. In this regard, K&G provided evidence that it reached out to the local prefect concerning its registration through local legal counsel prior to the time for proposal submission and that the prefect requested specific documents, which K&G submitted through counsel after proposal submission. *Id.* That is, while the prefect may have received all application materials after the time for proposal submission, the agency argues that K&G had credibly begun the process of getting on the white list prior to the time for receipt of proposals by contacting the local prefect through counsel. *Id.*

Concerning the protester's other arguments, the agency contends that not only were the issues identified by the protester not related to material solicitation requirements, they did not even relate to actual requirements of the solicitation. Supp. MOL at 2-8. That is, while the solicitation required certain minimum information about whether positions would be performed by the offeror or its subcontractors, the agency argues that the solicitation did not require that either personnel or specific subcontractors be named in proposals. *Id.* The agency contends that, while K&G's proposal did not identify staff or

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<sup>2</sup> While J&J's initial protest advanced six other challenges to the agency's evaluation, the protester subsequently withdrew those arguments following receipt of the initial agency report. Comments and Supp. Protest at 1 n.1.

subcontractors by name, K&G's proposal, nonetheless, met the actual minimum requirements of the solicitation. *Id.* Alternatively, the agency contends that even assuming the awardee's proposal failed to satisfy the solicitation's minimum information requirements, the protester cannot demonstrate that it was competitively prejudiced by any relaxation or waiver of these immaterial solicitation requirements. For the reasons that follow, we find no basis on which to sustain the protest.

Where an evaluation is challenged, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. *Lear Siegler Servs., Inc.*, B-280834, B-280834.2, Nov. 25, 1998, at 7. Moreover, it is a fundamental principle that a proposal that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis for award. *HumanTouch, LLC*, B-419880 *et al.*, Aug. 16, 2021, at 6. However, we note that our decisions have concluded that an agency may, in some circumstances, waive a material solicitation requirement if there is no prejudice to the other competitors and the quotation or proposal will otherwise meet the agency's needs. *Up-Side Mgmt. Co.*, B-417440, B-417440.2, July 8, 2019, at 7.

When an agency waives a material solicitation requirement, our Office will not sustain a protest unless the protester can demonstrate that it was prejudiced by the waiver. *Id.* In this context, we have clarified that prejudice does not mean that, had the agency failed to waive the requirement, the awardee would have been unsuccessful, but rather that prejudice is assessed based on whether the protester would have submitted a different proposal or could have done something else to improve its chances for award had it known that the agency would waive the requirement. *See, e.g., Blue Origin Federation, LLC, et al.*, B-419783 *et al.*, July 30, 2021, at 73-74.

Turning to the protester's white list argument, while the protester is correct that offerors were required to initiate the white list registration process prior to submitting a proposal, neither the agency's discussion letter nor the terms of the underlying contract cited by the protester define precisely what steps must be taken to initiate the process other than that the process must be initiated "with the Prefect." *See, e.g., AR*, Tab 11, K&G Discussion Letter at 2. Likewise, the discussion letter told offerors to include proof with their proposals that they have initiated the process but did not specify what types of proof would be accepted. *Id.*

While a letter from the prefect stating that the registration process had been initiated prior to the time for proposal submission (such as the one the protester submitted with its proposal) would unquestionably satisfy the requirement, we do not agree with the protester that it is the only way to satisfy that requirement. That is, while the protester argues that merely submitting the necessary documents to one's attorney does not constitute initiating the registration process with the prefect, that is not what occurred in this case. *See Comments and Supp. Protest* at 6-7. Rather, the intervenor contacted the local prefect through its Italian counsel about its registration prior to proposal submission and provided emails to the agency substantiating that fact. *AR*, Tab 12,

K&G Discussion Responses at 9 (an email from K&G's Italian counsel indicating that they had contacted the prefect concerning registration and received specific instructions from "the designated official"). Given that the only substantive requirement identified was that the registration process must be initiated with the local prefect, it was not irrational for the agency to conclude that contacting the local prefect through counsel about registration was tantamount to initiating the registration process with the local prefect, as required.<sup>3</sup>

Further, even if we assume, for the sake of argument, that this requirement was material and that K&G failed to meet it, the protester has not identified in what way it was prejudiced by the agency's waiver of this requirement. See *Blue Origin Federation, LLC, et al., supra*. That is, while the protester argues that it would be in line for award if K&G's proposal were unacceptable, that is not the appropriate inquiry when an agency has waived or relaxed a material solicitation requirement. See *id.* J&J has not explained how it would have altered its own proposal had it known the agency would not strictly enforce this requirement, or how its competitive position was meaningfully affected by K&G filing its complete registration packet a day late. We will not sustain a protest where there is no meaningful possibility of competitive prejudice. *Louis Berger Power, LLC, B-416059, May 24, 2018, at 7.*

Turning to the protester's remaining arguments, we likewise conclude that they provide no basis to sustain the protest. For example, the protester alleges that the awardee's organizational chart failed to include the names of its employees, and contends that this information was required by the solicitation. Comments and Supp. Protest at 7-11. Specifically, the solicitation required that the organizational charts "[i]dentify the on and offsite corporate, project management, administrative, technical, supervisory, trades personnel, and proposed subcontractors/service vendors." See AR, Tab 5, RFP attach. 2 at 16. Here, the protester alleges that K&G's organizational chart identified such personnel by role or position rather than by name. Comments and Supp. Protest at 7-11. The agency argues in response that the solicitation did not require offerors to identify personnel by name, but rather only required that offerors identify personnel by trade, role, or position. Supp. MOL at 2-8.

Where a dispute exists as to a solicitation's actual requirements, we will first examine the plain language of the solicitation. *Intelsat General Corporation, B-412097, B-412097.2, Dec. 23, 2015, at 8.* Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Crew Training Int'l, Inc., B-414126, Feb. 7, 2017,*

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<sup>3</sup> As the protester notes, the Italian Department of the Interior's guidance for submitting a white list registration notes that registration documentation must be submitted through the official portal or "another method approved by the Prefect[,]" which clearly contemplates that there is potentially more than one method of seeking registration with the local prefect. Comments and Supp. Protest at 7 (*citing* exh. 1 at 6.)

at 4. An ambiguity exists where two or more reasonable interpretations of the terms or specifications of the solicitation are possible; a patent ambiguity exists where the solicitation contains an obvious, gross, or glaring error, while a latent ambiguity is more subtle. *Id.*

Here, we do not agree that the solicitation's organizational chart instructions clearly required offerors to identify personnel by name as opposed to identifying them by role or position. The solicitation does not specifically explain how offerors should identify personnel, instead merely listing a large number of categories for identification such as on or off site personnel, and whether the personnel work for the offeror directly or for a subcontractor. In that specific context, the term "identify" is clearly ambiguous: it could be reasonably read to refer to identification by name, or could be reasonably read to refer to identification of which positions/labor types would perform specific types of work (e.g. which combination of trades would perform work at a specific site). See AR, Tab 5, RFP attach. 2 at 16. The agency's conclusion that the awardee's approach of identifying personnel by role or position was acceptable is a reasonable reading of the solicitation.

Because this ambiguity was plain on the face of the solicitation, we conclude that this is a patent ambiguity. Where, as here, a patent ambiguity is not challenged prior to submission of solicitation responses, we will not consider subsequent untimely arguments asserting the protester's own interpretation of the ambiguous provisions. *FFLPro, LLC*, B-411427.2, Sept. 22, 2015, at 10. An offeror that competes under a patently ambiguous solicitation does so at its own peril, and cannot later complain when the agency proceeds in a manner inconsistent with one of the possible interpretations. *Shertech Pharmacy Piedmont, LLC*, B-413945, Nov. 7, 2016, at 4 n.2.

Additionally, even assuming that the protester's interpretation of the solicitation's requirements was the only reasonable interpretation, we can discern no reasonable possibility of competitive prejudice. Specifically, the protester's own proposal failed to identify approximately 50 positions by name in its own organizational chart. See AR, Tab 8, J&J Technical Proposal at 21-22. For that reason, if we were to adopt the protester's reading, the protester would also be technically unacceptable and ineligible for award. Thus, even assuming that the protester's interpretation of the solicitation was the only reasonable reading, and the agency therefore waived or relaxed this solicitation requirement for the awardee, the agency nevertheless waived the identical requirement in an identical manner for both offerors. Therefore, the protester's critique of the agency's evaluation provides no basis on which to sustain the protest.

As another example, the protester contends that the awardee's proposal was similarly deficient because it failed to identify its proposed subcontractors as required by the solicitation. In addition to the organizational chart instructions noted above, the solicitation also specifically required offerors to provide a list of equipment and services, and required for each item that offerors "[l]ist the trade and/or specific subcontractor as applicable[.]" and should "[s]pecify in-house trade position(s), or indicate if outside subcontractor will be used (list company name, or refer to staffing plan

chart/subcontractor list)[.]” AR, Tab 5, RFP attach. 2, at 3. Contrary to the requirement to specifically identify subcontractors by company name, the protester alleges that the awardee’s proposal merely indicated that certain tasks would be performed by an undisclosed subcontractor or subcontractors. See AR, Tab 7, K&G Technical Proposal at 3-14. The protester contends that the failure to specifically identify the appropriate subcontractor by name should have resulted in the assessment of a deficiency.

While the agency contests the protester’s interpretation of the solicitation as requiring offerors to specifically identify its proposed subcontractors, the agency also alternatively argues that, even assuming that the awardee failed to comply with such requirement, the protester cannot reasonably establish competitive prejudice resulting from the agency’s waiver of the requirement. Supp. MOL at 2-8. Specifically, the agency explains that the technical evaluators saw only sanitized versions of proposals, and the solicitation required that such sanitized versions omit any company names. Supp. MOL at 2. The agency further argues that the contracting officer adopted the technical evaluation without departing from the conclusions reached by the technical evaluators. See AR, Tab 17, Source Selection Decision at 14. Thus, the agency submits that the failure to include subcontractor names could not have been material because the identities of proposed subcontractors was not material to the agency’s evaluation of proposals and resulting award decision. Supp. MOL at 2-8.

The agency’s argument is that, in effect, because it did not need the information in question for its evaluation and the requirement does not otherwise affect price, schedule, quantity, or delivery, that this was not a material requirement of the solicitation, or, at best, it was a requirement that could be waived without prejudice to other offerors. We find this argument persuasive. Given that the evaluators conducted their technical evaluation on the basis of the sanitized versions of the proposals and the contracting officer adopted that evaluation without departing from it, it is unclear what possible theory of competitive prejudice could be advanced by the protester on these facts. That is, while the awardee’s proposal may have omitted required information, the information would necessarily have been appropriately omitted from the sanitized version of the proposal that was actually used in the agency’s evaluation.

Furthermore, the protester has not explained how it was competitively prejudiced by the agency’s purported relaxation of this requirement other than by pointing to the awardee’s alleged noncompliance, nor has the protester explained how it would have altered its proposal to its advantage had it known the agency would relax this requirement. See, e.g., Supp Comments at 8. In short, the protester has simply not

established how the presence or absence of the information in the awardee's proposal could have had any bearing on the competitive posture of the offerors. See *Blue Origin Federation, LLC, et al., supra*. Accordingly, we see no basis to sustain the protest.<sup>4</sup>

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

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<sup>4</sup> We also note that these alleged deficiencies do not appear to have been addressed in discussions with the intervenor. As a general matter, discussions, when conducted, must be meaningful--that is, they must identify deficiencies and significant weaknesses that exist in an offeror's proposal. See, e.g., *Mission Essential Personnel, LLC*, B-407474, B-407493, Jan. 7, 2013, at 5. Moreover, we will sustain a protest when the record shows that, although an agency held discussions, it failed to raise a deficiency that was present in an offeror's initial and revised proposals. *Id.* Accordingly, even if we were to conclude the protester were prejudiced by these errors, it would likely be improper for the agency to exclude K&G's proposal on this basis without first permitting it an opportunity to resolve these deficiencies through discussions.