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Decision

Matter of: INDUS Technology, Inc.

File: B-424002; B-424002.2

Date: February 17, 2026

Richard B. Oliver, Esq., J. Matthew Carter, Esq., and Dinesh C. Dharmadasa, Esq., Pillsbury Winthrop Shaw Pittman LLP, for the protester.
Christopher Lybeck, Esq., Laura Whitten, Esq., and Trenton Bowen, Esq., Department of the Navy, for the agency.
Jacob M. Talcott, Esq., and Heather Weiner, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's elimination of protester's proposal from the competition is denied where the agency reasonably concluded that the protester's proposal failed to demonstrate how it would provide at least 30 percent of the total proposed value of the task order to small business concerns.
 2. Protest challenging the remaining portions of the agency's evaluation are dismissed where the protester fails to show competitive prejudice.
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DECISION

INDUS Technology, Inc., of San Diego, California, protests the elimination of its proposal from the competition under request for proposals (RFP) No. N0025325R3000, issued by the Department of the Navy, Naval Sea Systems Command, for maintenance, engineering, and industrial operations support services. The protester, which is the incumbent contractor, contends that the agency unreasonably eliminated its proposal for purportedly failing to demonstrate, as required by the solicitation, that it would provide at least 30 percent of the proposed total estimated amount of the task order to small business concerns.

We deny the protest.

BACKGROUND

The agency issued the solicitation on June 24, 2025, in accordance with Federal Acquisition Regulation (FAR) part 16, to holders of the Navy's SeaPort Next Generation indefinite-delivery, indefinite-quantity (IDIQ) multiple award contracts. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 1-2. The solicitation contemplated the issuance of a cost-plus-fixed-fee task order for a base year and four, 1-year option periods, for support services at the Naval Undersea Warfare Center Division in Keyport, Washington. Agency Report (AR), Tab 1, RFP at 3-5; COS/MOL at 2.¹ The due date for proposals, as amended, was July 31, 2025.² COS/MOL at 2.

The solicitation provided for evaluation on a best-value tradeoff basis, considering the following evaluation factors: (1) technical; (2) past performance; (3) cost; and (4) contract documentation. RFP at 108. The technical factor was more important than past performance, and when combined, the technical factor and past performance were significantly more important than cost.³ *Id.* at 108. The agency would evaluate the contract documentation factor on a pass/fail basis. *Id.* at 110.

As relevant here, in evaluating cost, the solicitation provided that the agency would perform a cost realism analysis to determine whether an offeror's proposed cost elements reflected a clear understanding of the requirements and were consistent with the technical proposal. *Id.* at 110. Under this factor, offerors were to provide a cost narrative, along with the following two spreadsheets, provided as attachments to the solicitation: section B pricing spreadsheet and cost proposal spreadsheet. *Id.* at 104. For the cost proposal narrative, offerors were to provide a narrative that substantiated the reasonableness and realism of all proposed costs. *Id.* The cost proposal narrative also was to address specific cost areas, such as subcontractors, labor hours, direct labor rates, and maximum pass-through and fee rates.⁴ *Id.* at 104-105. *Id.* at 5. The

¹ All citations reference the Adobe PDF page number.

² The agency issued one amendment to the solicitation, which is not relevant to the protest and is not further discussed.

³ The technical factor, which is not at issue in this protest, consisted of the following subfactors: technical approach, management approach, and personnel approach. *Id.* The agency would assign proposals a rating of outstanding, good, acceptable, marginal, or unacceptable under this factor. *Id.* at 108-109. For past performance, which is also not at issue in this protest, the agency would evaluate the recency, relevancy, and quality of performance. *Id.* at 109.

⁴ As relevant here, the solicitation defined the pass-through rate as the cumulative amount of the following two elements divided by the price paid to the subcontractor or the vendor: (1) any and all prime contractor indirect costs including, but not limited to: overhead, material handling charges, general and administrative (G&A), burdens and mark-ups; and (2) any and all prime contractor profit or fee. RFP at 5.

solicitation further provided that the maximum pass-through rate charged against any non-ODC (other direct cost) contract line item numbers (CLINs) was not to exceed 8 percent. *Id.* Any proposed rate that exceeded the maximum rate requirements could be found unacceptable and thus, render the proposal ineligible for award. *Id.* at 105.

For the section B pricing spreadsheet, offerors were to list the total labor hours, total estimated cost, total fixed-fee, total cost-plus-fixed-fee, estimated cost per hour, fixed-fee per hours, and the total loaded rate for each labor CLIN. See AR, Tab 3a, INDUS Section B Spreadsheet/Cost Proposal Spreadsheet. For the cost proposal spreadsheet, offerors were to provide, among other things, a detailed breakdown of all proposed costs, including subcontractor costs, and a crosswalk of all company-specific labor categories. *Id.*; RFP at 104. In the event there were any discrepancies between section B pricing and the cost spreadsheet or cost proposal, the solicitation provided that section B pricing would control. *Id.* at 104.

For the contract documentation factor, the agency would evaluate proposals to ensure that all required information was provided, such as information concerning small business participation. *Id.* at 105-106. As relevant here, each offeror was required to demonstrate “how it will provide at least 30 [percent] of the proposed total estimated amount of the task order to small business concerns.” *Id.* at 106. As mentioned above, the agency would evaluate this factor on a pass/fail basis; any proposal failing to demonstrate compliance with this 30 percent requirement for small business participation, or any other requirement under this factor, would be ineligible for award. *Id.* at 110.

The agency received a timely proposal from INDUS. COS/MOL at 5. On October 3, 2025, following a review of INDUS’s proposal, the agency provided INDUS with a notice of noncompliant proposal informing INDUS that its proposal failed to comply with the requirements of the solicitation in two respects. AR, Tab 7, Notice of Noncompliant Proposal at 284-287. The notice provided that INDUS’s proposal was eliminated from the competition because it failed to demonstrate how at least 30 percent of the proposed total estimated amount of the task order would be provided to small business concerns. *Id.* at 286. Because INDUS’s proposal failed to satisfy the 30 percent threshold, the agency concluded that INDUS’s proposal was unacceptable and thus, ineligible for award.⁵ *Id.* at 287. Additionally, the agency concluded that INDUS proposed a pass-through rate that exceeded the 8 percent threshold, which also rendered INDUS’s proposal unacceptable and thus, ineligible for award. *Id.* This protest followed.⁶

⁵ The expected value of the task order is over \$100 million and therefore is within our jurisdiction to review protests related to the issuance of orders exceeding \$35 million under multiple-award IDIQ contracts issued under the authority of title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B).

⁶ Due to a lapse in appropriations, GAO was closed from October 1 to November 12. On October 1, 2025, GAO’s electronic protest docketing system (EPDS) sent an email
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DISCUSSION

INDUS raises two main challenges to the agency's elimination of its proposal from the competition. Specifically, INDUS asserts that the agency unreasonably concluded that its proposal failed to demonstrate how it would provide at least 30 percent of the proposed total estimated amount of the task order to small business concerns. Protest at 15; Supp. Protest at 6-11. INDUS also argues that the agency unreasonably concluded that its pass-through rate exceeded the 8 percent threshold.⁷ Protest at 8. For the reasons discussed below, we deny the protest.⁸

In reviewing protests of an agency's evaluation and source selection decision, even in a task or delivery order competition as here, we do not reevaluate proposals; rather, we review the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. See *Ball Aerospace & Techs. Corp.*, B-411359, B-411359.2, July 16, 2015, at 7. A protester's disagreement with the agency's judgment, by itself, is not sufficient to establish that an agency acted unreasonably. *Id.*

INDUS asserts that the agency unreasonably eliminated its proposal from the competition due to its purported failure to provide at least 30 percent of the proposed total estimated amount of the task order to small business concerns. Protest at 15. According to INDUS, its proposal demonstrated compliance with this requirement, but the agency found it noncompliant only after it "inexplicably and unreasonably excluded

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to all active EPDS accounts, notifying users of the government shutdown and indicating that deadlines for the filing of new protests that fall on a day that GAO was closed would be extended to the first day that GAO resumed operations. INDUS filed its protest after 5:30 p.m., Eastern Time on September 30. As such, the protest was considered filed with our Office the next day GAO resumed operations, which was November 13. 4 C.F.R. § 21.0(d), (g).

⁷ In its initial protest, INDUS alleged that the agency, in addition to the purported evaluation errors discussed above, also may have engaged in disparate treatment. Protest at 14 n.1 (stating that "it is highly unlikely" that the agency held other offerors to the same evaluation standard). The protester based this argument on the "fact that the [s]olicitation has not been canceled[.]" *Id.* The agency requested dismissal of this protest ground, arguing that there was no "factual evidence that lends any likelihood or credence to such an allegation[.]" Agency Req. for Dismissal at 3. We dismissed the allegation, agreeing with the agency that this protest ground failed to provide a sufficient basis for protest and instructed the agency not to address this protest ground in the agency report. See *Warfighter Focused Logistics, Inc.*, B-423546; B-423546.2, Aug. 5, 2025, at 4.

⁸ Although we do not address every argument raised by the protester, we have considered all of them and find that none provide a basis to sustain the protest.

pass-through and fee” from INDUS’s calculation of the amount of the task order to small business concerns. *Id.* at 16. Removing the pass-through from the calculation, in the protester’s view, rendered the evaluation “incomplete and unreasonable.” *Id.* at 17. The agency responds that it reasonably concluded that the protester’s proposal failed to demonstrate that at least 30 percent of the total estimated amount of task order would go to small business concerns. COS/MOL at 15-19. In this regard, the agency asserts that including pass-through in the amounts payable to the small business subcontractors “is not logical” because the small business subcontractors would never receive those funds. *Id.* at 18.

As relevant here and noted above, for the contract documentation volume, offerors were required to demonstrate how they would provide at least 30 percent of the proposed total estimated amount of the task order to small business concerns. RFP at 106. The solicitation provided that the agency would assign proposals a pass/fail rating under the contract documentation factor; any proposal that received a rating of “fail” under any of the requirements under this factor, including the small business participation requirement, would be ineligible for the task order and thus, eliminated from the competition. *Id.*

In the contract documentation volume of INDUS’s proposal, INDUS provided a small business participation narrative that included a breakdown of the total estimated amount of the task order that it would allocate among three small business subcontractors during performance, totaling \$34,117,372. AR, Tab 3, INDUS Cost Proposal Narrative at 266. INDUS explained that its proposed total amount for the task order was \$113,724,575, and thus, calculated that the small business participation of its small business subcontractors (\$34,324,736) was 30.3 percent of the total amount of the task order. *Id.* INDUS explained that it would exceed the minimum small business participation requirement by “allott[ing] approximately 30.3 [percent] of the total estimated dollar amount of the task order” to these small business subcontractors. See *id.*

In evaluating INDUS’s proposal, however, the agency found that the “Small Business Participation plan amount” identified in the narrative of INDUS’s proposal “does not align with either the Section B pricing [spreadsheet] or the Cost Summary pricing [spreadsheet].” AR, Tab 2, Exclusion Determination at 117. In this regard, the agency found that INDUS’s cost proposal spreadsheet “demonstrates Small Business Participation of \$33,640,769.20, a percentage of 29.58 [percent][,]” below the minimum threshold of 30 percent.⁹ *Id.* at 116; COS/MOL at 10. In response to the protest, the

⁹ We note that the notice of noncompliant proposal listed a small business participation amount of \$31,439,971, or 27.65 percent, which excluded the pass-through rate and fees. See AR Tab 7, Notice of Noncompliant Proposal at 286. The record reflects that the agency contemporaneously made two separate calculations of INDUS’s small business participation—one based on the information in INDUS’s cost summary pricing spreadsheet, resulting in 29.58 percent small business participation; and another based
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agency explained that, in calculating small business participation, the agency excluded the proposed pass-through rate, which caused INDUS's small business subcontracting percentage to fall below the 30 percent threshold. COS/MOL at 10. As a result, the agency found that "INDUS['s] Small Business Participation Plan and Cost Proposal Spreadsheet does not demonstrate compliance with . . . the requirement to allocate a minimum of 30 [percent] of the proposed total estimated amount of the task order to small business concerns." AR, Tab 2, Exclusion Determination at 117. The agency therefore assigned a fail rating to INDUS's proposal to "indicat[e] a lack of fulfillment of mandatory solicitation requirements" and concluded that INDUS's proposal was "ineligible for award and will not be considered further." *Id.* Given that this percentage fell below the small business participation minimum threshold of 30 percent, the agency concluded that INDUS's proposal was unacceptable and eliminated it from the competition. *Id.*

INDUS disagrees with the agency's evaluation and argues that it was unreasonable for the agency to exclude the amount allocable to the pass-through rate when calculating its small business participation. Comments at 19. Pointing to the solicitation language that each "[o]fferor shall demonstrate how it will provide at least 30 [percent] of the proposed total estimated amount of the task order to small business concerns[.]" RFP at 106, the protester contends that the solicitation required it to demonstrate only that at least 30 percent of the estimated value of the task order would be attributable to small business subcontractors.¹⁰ Comments at 19. Had the agency included the "modest

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on the section B pricing spreadsheet, which resulted in 27.65 percent small business participation. AR, Tab 2, Exclusion Determination at 116-117. Although the protester challenges both calculations, this decision does not address whether the agency correctly arrived at the 27.65 percent figure based on the section B pricing spreadsheet. As discussed below, when the pass-through rate is removed, the parties agree that the percentage of the task order that INDUS proposed to provide to small businesses falls to 29.58 percent. See Comments at 20 (asserting that INDUS "effectively met the 30 percent threshold" when the pass-through rate is excluded). Because a value of 29.58 percent was sufficient to remove the protester's proposal from the competition, we do not separately consider whether the agency also correctly calculated the lower figure of 27.65 percent as doing so would have no impact on the outcome of our decision.

¹⁰ The protester further asserts that, with respect to the pass-through, "those costs are not generic prime overhead costs or fees on labor that are untethered to small business subcontractor performance." Comments at 24. Rather, the protester maintains that they "represent costs incurred solely because INDUS is managing and supporting small business subcontractor performance." *Id.* (explaining that "INDUS['s] pass-through amount . . . covers general and administrative expenses and subcontract management costs associated with subcontractor effort" and that "[t]hese pass-through costs are not profits on top of subcontractor work, they are costs of enabling that work to occur and are incurred only because subcontractors are performing a substantial portion of the task order."). As such, the protester contends that "[w]here subcontractor performance

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[DELETED] percent pass-through” rate, INDUS asserts that its proposal would have exceeded the minimum threshold. *Id.* at 20.

The agency responds that it was reasonable to exclude these rates from the calculation of small business participation because a pass-through rate, by definition, is paid to the prime contractor and small business contractors “would never receive those funds.” COS/MOL at 18. Also pointing to the RFP language that each “[o]fferor shall demonstrate how it will provide at least 30 [percent] of the proposed total estimated amount of the task order to small business concerns[.]” RFP at 106, the contracting officer asserts that “[t]his evaluation metric is to take into consideration what amount of the contract is actually being disbursed to small businesses.” AR, Tab 4, Declaration of Contracting Officer at 227. In this regard, the contracting officer explains that “[a]s pass through [is a] Prime Contractor cost[] that [is] not disbursed to small businesses[.]” it is “not part of the calculation.” *Id.* Because offerors were to demonstrate that 30 percent of the estimated value of the task order would go to small business subcontractors, the agency argues that it reasonably excluded the pass-through rate from its calculation. *Id.*

Based on our review of the record, we find nothing unreasonable regarding the agency’s evaluation. As stated above, the solicitation expressly provided that “there is a small business participation requirement of 30 [percent]” and required each offeror to “demonstrate how it will provide at least 30 [percent] of the proposed total estimated amount of the task order to small business concerns.” RFP at 101, 106. The solicitation did not provide further instruction on how the 30 percent threshold would be calculated. Although the protester and agency disagree regarding whether the calculation of small business participation should be based on costs attributable to small business subcontractors or based on payments provided to small business subcontractors, as the agency points out, the solicitation clearly states that offerors were to demonstrate how at least 30 percent of the total estimated amount of the task order would be “provide[d] . . . to” small business concerns. See COS/MOL at 18; RFP at 106.

Based on this, the agency reasoned that because the pass-through is an amount paid to the prime not to the subcontractors, it would not consider the pass-through cost in its calculation of small business participation. See COS/MOL at 18; AR, Tab 4, Declaration of Contracting Officer at 227. While the protester argues that the pass-through rate should have been included in this calculation because that rate is “incurred solely because INDUS is managing and supporting small business subcontractor

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necessarily generates associated prime costs, such as contract administration, oversight, billing, and compliance, those costs are part of the total estimated amount attributable to small business subcontractor work.” *Id.* In the protester’s view, excluding these costs “artificially understates the true value of work being provided by small business subcontractors.” *Id.*

performance[.]” Comments at 24, and therefore should be attributable to small business subcontractors, the protester does not show how such costs are provided “to” the subcontractors, as indicated in the solicitation. RFP at 106. To the extent the protester contends that the agency should have used a different method to calculate small business participation, the protester has not shown that the method used by the agency was unreasonable. The protester’s disagreement with the agency’s evaluation, without more, is not sufficient to establish that an agency acted unreasonably. *Ball Aerospace, supra*. As such, we find nothing unreasonable regarding the agency’s decision to exclude the pass-through rate from its small business participation calculation. Since INDUS’s small business participation fell below the 30 percent threshold once this rate was removed, its proposal failed to meet this requirement and was reasonably found to be ineligible for award. Accordingly, this protest ground is denied.

Competitive Prejudice

Because, as discussed above, we conclude that the agency’s decision to eliminate INDUS’s proposal from the competition for failing to meet the RFP’s 30 percent small business participation requirement was unobjectionable, we do not need to reach INDUS’s other protest ground--namely that the agency unreasonably concluded that its pass-through rate exceeded the 8 percent threshold--due to a lack of competitive prejudice. Protest at 8. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was competitively prejudiced by the agency’s actions; that is, the protester must demonstrate that, but for the agency’s actions, it would have had a substantial chance of receiving the award. *Exceptional Software Strategies, Inc.*, B-416232, July 12, 2018, at 3-4 n.3.

Here, the agency evaluated small business participation on a pass/fail basis; any proposal that failed to meet the 30 percent threshold for small business participation was deemed ineligible for award and eliminated from the competition. RFP at 110. Because, as discussed above, we have concluded that the agency reasonably eliminated INDUS’s proposal from the competition due to its failure to satisfy this minimum threshold, we have no basis to address INDUS’s argument regarding the agency’s other basis for finding its proposal noncompliant. Even if we were to sustain this other protest ground, INDUS would not have a substantial chance of receiving the task order because its proposal was properly eliminated from the competition for another reason. Accordingly, the protester’s remaining protest ground is dismissed.

The protest is denied.

Edda Emmanuelli Perez
General Counsel