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Decision

Matter of: Tyonek Technical Innovations, LLC

File: B-424364; B-424364.2

Date: June 30, 2026

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DIGEST

1. Protest challenging terms of solicitation as inconsistent with Defense Federal Acquisition Regulation Supplement (DFARS) 215.305(a)(2)(C) requirement to consider the past performance of a small business concern's affiliates is dismissed as untimely.
 2. Protest challenging agency's past performance evaluation is dismissed as premature when brought prior to award.
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DECISION

Tyonek Technical Innovations, LLC, a small business of Anchorage, Alaska, protests the terms of request for proposals (RFP) No. FA8773-25-R-0002 issued by the Department of the Air Force for cyber operations training support services. The protester challenges the agency's interpretation of the solicitation's evaluation of affiliate past performance as contrary to law and regulation and asserts that the agency's evaluation of Tyonek's submitted past performance references for its affiliates is unreasonable.

We dismiss the protest.

BACKGROUND

On May 19, 2025, the agency issued the RFP as an 8(a) small business set-aside, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 15.3. The RFP contemplates the award of a single indefinite-delivery, indefinite-quantity contract

to support the agency's cyber operations training program. Contracting Officer's Statement (COS) at 1-3; Agency Report (AR), Tab 12, RFP, Section L at 1.¹

The solicitation consisted of three factors: (1) technical; (2) past performance; and (3) price. AR, Tab 15, RFP, Section M at 2. The technical factor consisted of two subfactors: facility security clearance; and management plan/staffing plan. *Id.* The solicitation advised that offerors would first be evaluated under the technical factor and that each technical subfactor would be rated as acceptable or unacceptable. *Id.* at 3. Proposals had to be rated as acceptable under both subfactors before the agency would evaluate the past performance and price factors. *Id.* The RFP further explained that "acceptability is a prerequisite to the best value analysis and potential tradeoff between Past Performance and Price[.]" with past performance considered significantly more important than price. *Id.* at 2. As relevant here, the solicitation advised that offerors would receive a performance confidence assessment rating under the past performance factor to assess the degree of confidence the agency had in the offeror's ability to supply products and services, including cost and schedule based on a demonstrated record of performance.² *Id.* at 5.

Also relevant, Section L.4.1 of the RFP required offerors to demonstrate their past performance, in part, by submitting past performance information forms (PPIFs) "for the prime contractor" and "for each significant subcontractor/teaming partner." AR, Tab 12, RFP, Section L at 10-11, 20-27. Furthermore, the solicitation advised offerors that

Affiliate companies, sister companies, teaming arrangements, joint venture agreement, etc., will be considered, provided that sufficient documentation is included in the proposal. The prime contractor must demonstrate that the affiliate will perform significant and critical aspects of the contract if awarded. Proposal documentation should include a copy of the signed arrangement such as documented affiliation, a copy of the teaming agreement, a copy of the joint venture agreement, etc. If the required information is not included in the proposal, the proposed affiliate companies, sister companies, joint venture companies, etc. shall not be evaluated or considered.

Id. at 12 (Section L.4.3.3).

The solicitation also stated that offerors had to "describe the portion of effort each team member is proposed to perform in relation to the Factor 1 Technical subfactors, Factor 3 Price, and Scope, Magnitude and Complexity." *Id.* at 10. The RFP explained that the

¹ All citations are to the adobe PDF page numbers.

² The past performance ratings were substantial confidence, satisfactory confidence, neutral confidence, limited confidence, and no confidence. AR, Tab 15, RFP, Section M at 5.

past performance evaluation team (PPET) would evaluate each team member for relevancy and performance quality “based on their proposed portion of the effort.” *Id.* As a result, the RFP cautioned that it was “important for the Offeror to provide a detailed portion of effort description, in order for the PPET to conduct an accurate assessment.” *Id.* The solicitation also instructed offerors to submit a narrative “explaining what aspects of the contract are deemed relevant to the proposed effort, and to what aspects of the proposed effort they relate.” *Id.* at 11-12.

On July 25, 2025, the agency received proposals, including one from the protester. Supp. COS at 4. Tyonek submitted three past performance efforts with its proposal, each of which was performed by a company affiliated with Tyonek. After evaluating initial proposals, the agency conducted discussions. On August 25, 2025, the agency sent Tyonek an evaluation notice (EN) identifying weaknesses assessed in the firm’s proposal under the past performance factor. COS at 19; AR, Tab 23, Agency EN No. 1. The agency requested Tyonek to confirm whether it “intend[ed] to include consideration of an affiliate’s past performance” in its proposal, and requested submission of a “signed copy of documented affiliations and a signed copy of the teaming agreement between affiliates/subsidiaries and/or sister companies.” AR, Tab 23, Agency EN No. 1 at 1-2. In response, Tyonek confirmed its “intent to include consideration of sister company past performance,” and submitted the requested documents. AR, Tab 24, Tyonek EN No. 1 Resp. at 2. In its teaming agreements, the protester stated that the “[d]ivision of work and materiel acquisition responsibilities” between the entities “[would] be defined and mutually agreed upon after award.” *Id.* at 2-3, 7.

After receiving Tyonek’s response to the first EN, the agency followed with a second EN, identifying continued concerns and requested that Tyonek explain whether its affiliates would perform significant or critical aspects of the requirement in accordance with Section L.4.3.3 and to explain how affiliates would contribute “resources to the performance of the contract in a meaningful way[.]” AR, Tab 25, Agency EN No. 2 at 1-3. In its response, Tyonek identified sister companies Tyonek Technical Services, LLC and Tyonek Global Services, LLC as subcontractors and stated that they would perform approximately 22% and 13% of the solicited requirement, respectively. AR, Tab 26, Tyonek EN No. 2 Resp. at 8, 10, 14. The agency issued its third EN and requested Tyonek to explain the relevance of its team members’ proposed performance.³ AR, Tab 27, Agency EN No. 3 and Tyonek Resp. at 2-3.

Prior to responding to the third EN, on February 4, 2026, Tyonek asked if the agency “considered [Department of Defense] FAR [supplement] [DFARs] 215.305[(a)(2)(C)] when evaluating [Tyonek’s] past performance” and whether it planned to “credit the experience of [Tyonek’s] affiliates without exception[.]” AR, Tab 29, Tyonek Email to

³ In response to the third EN, Tyonek stated that it was “claiming the past performance of its sister subsidiary affiliates, as originally proposed[.]” and that Tyonek would serve as prime contractor. AR, Tab 27, Agency EN No. 3 and Tyonek Resp. at 7. Tyonek also provided documentation requested by the agency.

Agency at 3. Tyonek further stated that the “plain language” of the DFARS provision, updated in November 2024 and implemented under Section 865 of the fiscal year 2024 National Defense Authorization Act [NDAA] does not limit the agency’s “obligation to consider past performance of small business affiliates” to the past performance of affiliates that “proposed to have meaningful involvement” in the contract at issue. *Id.* at 3. On February 6, 2026, the agency responded to Tyonek and stated its evaluation complies with the solicitation, DFARS 215.205(a)(2)(C), and Section 865 of the NDAA. *Id.* at 5.

On February 9, 2026, Tyonek filed an agency-level protest, challenging Section L. 4.3.3 of the solicitation as “improper where it conflicts with binding law and regulation.” AR, Tab 32, Agency-Level Protest, exh. J at 102. In this regard, Tyonek argued that DFARS 215.305(a)(2)(C) required the agency to consider the past performance of affiliates without any additional consideration, and that Tyonek did not have to demonstrate that the affiliates would be involved in performance of the contract in order for their past performance to be evaluated. On March 16, 2026, the agency dismissed Tyonek’s agency-level protest as untimely. AR, Tab 30, Agency-Level Protest Decision. On March 25, 2026, Tyonek filed this protest.

During the pendency of this protest, on April 23, 2026, the agency issued Tyonek a request for final proposal revisions (FPR), which included the agency’s evaluation of Tyonek’s pre-FPR past performance as “satisfactory confidence.”⁴ See AR, Tab 38, Agency Req. for FPR at 1,6. Furthermore, the agency advised that it would use the pre-FPR ratings as “official final ratings” if Tyonek did not submit an FPR or if the FPR was late. See *id.* at 2. On April 29, 2026, Tyonek responded to the agency’s FPR request to confirm it would not make additional proposal revisions. See AR, Tab 39, Tyonek Email to Agency at 1. The agency has not yet made an award decision.

DISCUSSION

Tyonek contends that it is challenging the agency’s interpretation of the RFP’s past performance requirements with respect to the evaluation of affiliate’s past performance. Protest at 4; Comments at 4. Tyonek also argues that the agency improperly assessed Tyonek’s PPIFs and unreasonably assigned a rating of satisfactory confidence to its proposal under the past performance factor. Supp. Comments at 6-8. Although we do not discuss every argument raised, we have reviewed each issue and conclude that none presents a basis to sustain the protest.

Solicitation Interpretation

The protester alleges that the solicitation did not place Tyonek “on notice that the

⁴ The agency explained that the rating considered Tyonek’s demonstrated performance at “individual contract levels,” “aggregate team level,” and Tyonek’s “proposed portion of effort for each team member.” AR, Tab 38, Agency Req. for FPR at 6.

[a]gency would not consider such [affiliate] past performance as though it were the past performance of [Tyonek], without exception.” Comments at 4. Tyonek explains that the solicitation language is not under dispute, but rather the agency’s application of the solicitation requirement violates DFARs 215.305. *Id.* at 5. The agency contends that Tyonek challenges the solicitation terms, which have not changed “over the course of the solicitation period” and as result its protest to our Office is an untimely challenge to the terms of the solicitation, which is what it determined in dismissing Tyonek’s agency-level protest as untimely. See Memorandum of Law (MOL) at 10-14.

The FAR requires that agency-level protests based on alleged apparent improprieties in a solicitation be filed before bid opening or the closing date for receipt of proposals. FAR 33.103(e). Our regulations also require that a protest based on alleged improprieties in a solicitation that is apparent prior to bid opening be filed before that time. 4 C.F.R. § 21.2(a)(1). Furthermore, 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. *IDS Int’l Gov’t Servs., LLC*, B-419003, B-419003.2, Nov. 18, 2020, at 4.

Tyonek maintains that it filed its agency-level protest within 10 days of when the basis of its protest became known on February 6, 2026, the date it received the agency’s response to its question regarding the agency’s interpretation of the solicitation language addressing affiliate’s past performance. See AR, Tab 29, Tyonek Email to Agency at 5. Tyonek maintains that it did not know how the agency would interpret this language in the solicitation until it engaged in discussions and therefore its protest is timely filed within 10 days of learning the agency’s interpretation.

We do not find persuasive the protester’s position that the agency’s interpretation of the solicitation terms was not apparent until Tyonek engaged in discussions. Rather, we find that the plain language of the solicitation made it unambiguously clear how the agency intended to treat the past performance information of affiliated companies and that Tyonek’s protest is an untimely challenge to the terms of the solicitation.

As noted above, the solicitation stated that the past performance of affiliate and sister companies would be considered if the offeror provided sufficient documentation in the proposal showing “that the affiliate will perform significant and critical aspects of the contract if awarded.” AR, Tab 12, RFP, Section L at 12. The RFP warned that if this information was not provided, “the proposed affiliate companies, sister companies, joint venture companies, etc. shall not be evaluated or considered.” *Id.* In addition, the RFP explained that the PPET would evaluate each team member for relevancy and performance quality “based on their proposed portion of the effort” and that it was “important for the Offeror to provide a detailed portion of effort description, in order for the PPET to conduct an accurate assessment.” *Id.* at 10.

Accordingly, the RFP made clear that affiliate past performance would not be attributed to the offeror “without exception,” as Tyonek argues. Thus, to the extent Tyonek

believed that the RFP was inconsistent or in conflict with DFARS 215.305, this was apparent from the plain language of the solicitation. As a result, the protester's arguments are a challenge to the solicitation's requirements and Tyonek was required to protest this alleged solicitation impropriety before the due date for proposal submissions. 4 C.F.R. § 21.2(a)(1). Having waited until discussions to file its agency-level protest, Tyonek's challenge to the solicitation terms in its agency-level protest is untimely filed and subsequently its protest before our Office is untimely. Accordingly, this protest ground is dismissed.⁵

Evaluation of Tyonek's Past Performance

The protester challenges its pre-FPR past performance rating, arguing that the agency improperly failed to credit Tyonek for its affiliates' relevant past performance as offeror past performance in violation of DFARS 215.305(a)(2)(C). Supp. Protest at 5; Supp. Comments at 5. As noted above, during the pendency of the protest, the agency evaluated the past performance submissions from Tyonek's affiliated companies because Tyonek explained that they would be subcontractors and perform certain aspects of the requirements. Based on their past performance, the agency has thus far assessed Tyonek a rating of satisfactory confidence under the past performance factor because although the PPIFs demonstrated experience with several of the requirements identified in the performance work statement, none of them showed experience with the cybersecurity support requirement. AR, Tab 41, Tyonek Past Performance Confidence Assessment at 3. The agency informed Tyonek of its rating in its request for FPRs.

Tyonek argues that this rating is unreasonable because the agency evaluated its affiliates only as subcontractors, and it should also have attributed the past performance to Tyonek itself, which would have resulted in a higher rating. Tyonek also contends

⁵ Tyonek argues that even if this challenge was untimely, we should still consider it under the significant issue exception to our timeliness rules. Comments at 8. We find no merit to this argument. Pursuant to our regulations, our Office may consider the merits of an untimely protest when good cause is shown or when the protest raises issues significant to the procurement system. 4 C.F.R. § 21.2(c). In order to prevent our timeliness rules from becoming meaningless, exceptions are strictly construed and rarely used. *Vetterra, LLC*, B-417991 *et al.*, Dec. 29, 2019, at 3. What constitutes a significant issue is decided on a case-by-case basis. *Cyberdata Techs., Inc.*, B-406692, Aug. 8, 2012, at 3. Here, Tyonek has failed to demonstrate that the interpretation of recent changes to DFARS 215.305(a)(2)(C) is an issue of widespread interest to the procurement community that would warrant resolution in the context of an otherwise untimely protest. See *Baldt Inc.*, B-402596.3, June 10, 2010, at 2-3. Moreover, the language of the solicitation regarding affiliate past performance was clear and should have put any reasonable offeror on notice that affiliate past performance would not be attributed to the offeror without exception. As such, we decline to invoke this exception to our timeliness rules.

that the rating is unreasonable because the PPIFs demonstrated experience in all but one of the requirements, which should not result in a satisfactory confidence rating. Supp. Comments at 6. The agency contends that this challenge is premature because it anticipates improper agency action. Req. for Dismissal at 9; MOL at 17.

On this record, we agree with the agency and find the protester's argument to be premature since it essentially challenges the agency's evaluation judgments before the award decision has been made. Here, any determination by our Office on Tyonek's challenges are premature because Tyonek remains in the competition and the agency has not made a final selection decision for award.⁶ See AR, Tab 38, Agency Req. for FPR at 5. Our Office has consistently stated that such pre-award evaluation challenges are premature. See, e.g., *Sikorsky Aircraft Corp.*, B-416027, B-416027.2, May 22, 2018, at 16 (dismissing pre-award challenge to agency's alleged unequal evaluation treatment as premature, where the argument was raised during discussions).

The protest is dismissed.

Edda Emmanuelli Perez
General Counsel

⁶ Our conclusion does not change even where the agency's FPR notice advised offerors that the pre-FPR ratings would be used as the "official final ratings" in a situation where an offeror did not submit a final revised proposal. Because the agency has not made an award, a disposition by our Office on this issue would be academic if Tyonek were selected for award.