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Decision

Matter of: Aero Simulation, Inc.

File: B-424444

Date: July 31, 2026

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Isabelle P. Cutting, Esq., and Colonel Justin A. Silverman, Department of the Air Force, for the agency.
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DIGEST

Protest challenging agency's exclusion of protester's proposal is dismissed as untimely where challenge is based on an alleged unstated evaluation criterion, but the criterion was included in the solicitation and protest was not brought until after the closing date for submission of proposals.

DECISION

Aero Simulation, Inc. (ASI), of Tampa, Florida, challenges its exclusion from further consideration by the Department of the Air Force, under fair opportunity proposal request (FOPR) No. FA8621-26-R-B004, issued for training systems program support services. The protester contends that the agency improperly excluded ASI after applying an unstated technical evaluation criterion. ASI asserts that, at a minimum, the solicitation was ambiguous regarding the definition of the technical evaluation criterion at issue and the agency unreasonably excluded ASI based on a previously undisclosed interpretation of that criterion.

We dismiss the protest.

BACKGROUND

Acquisition History

On April 22, 2024, the agency issued solicitation No. FA862124RB002, an earlier version of the current FOPR, to the holders of its Training Systems Acquisition (TSA) IV

indefinite-delivery, indefinite-quantity (IDIQ) multiple award contract (MAC), in the unrestricted and small business pools. Req. for Dismissal at 3. After evaluating proposals, the agency issued a task order in the amount of \$1.2 billion to ASI. *Id.* Shortly thereafter, three disappointed offerors (CAE USA, Inc.; NOVA Technologies; and FlightSafety Defense Corporation) filed protests with our Office, challenging either various aspects of the evaluation, or their elimination from the competition, or the source selection decision.

On May 5, 2025, the agency notified our Office that it would take corrective action by canceling the solicitation and issuing a new solicitation that more accurately set forth its requirements and clarifies any ambiguous terms. Based on the agency's proposed corrective action, we dismissed the protests as academic. *CAE USA, Inc.*, B-423462, B-423462.4, May 8, 2025 (unpublished decision); *NOVA Technologies*, B-423462.2, May 8, 2025 (unpublished decision); *FlightSafety Defense Corp.*, B-423462.3, May 8, 2025 (unpublished decision).

Following the dismissal of the protests, on July 21, the agency issued a sources sought notice for the recompetition of the requirement that included a questionnaire to interested firms.¹ Req. for Dismissal, attach. 1, C-17 Training System Recompete Sources Sought Notice at 1.² In the questionnaire, the agency requested that firms describe their prior corporate experience with configuration changes on full flight simulators (FFSs), and specifically identify "the maximum number of Engineering Change Proposals³ executed on [FFSs] under a single contract[.]" noting that an FFS "must be a six-axis motion simulator[.]"⁴ *Id.* at 3.

¹ The sources sought notice specified that under the C-17 contract, "the contractor will provide aircrew and maintenance crew instruction; develop, maintain, and update courseware; implement a Cybersecurity Program; perform Contractor Logistics Support . . . services; and perform concurrency and obsolescence modifications." Req. for Dismissal, attach. 1, C-17 Training System Recompete Sources Sought Notice at 1.

² Citations to the documents in the record are to the Adobe PDF paginations.

³ Engineering change proposal (ECP) experience, one of the two technical capability subfactors under the FOPR, includes "[n]on-recurring modifications to a contract" that change "the system/subsystem specifications and configuration documentation established during the design and development of a training system, subsystem, component, subcomponent, or part thereof." Protest, exh. 1, FOPR Evaluation Factors at 6; *id.*, exh. 2, FOPR Instructions to Offerors at 27.

⁴ As discussed in detail below, an FFS is one of the training devices used in the agency's C-17 training program. Req. for Dismissal at 1. The FFS devices "provide realistic and immersive training to pilots and aircrew, preparing them for operational scenarios," including "flight maneuvers, engine and flight control malfunctions, and landings and takeoffs in reduced visibility." *Id.* The agency training "is currently
(continued...)

In response, on August 5, ASI stated that it performed ECPs on “6-Degree of Freedom (DOF) devices”⁵ and other devices on three past contracts. *Id.*, attach. 2, ASI’s C-17 Sources Sought Responses at 2-4.

On November 14, the Air Force released a draft FOPR. *Id.*, attach. 3, Draft FOPR. The draft solicitation included a requirement to demonstrate corporate experience on five FFSs and defined an FFS as a high-fidelity replica of an aircraft that, among other requirements, includes the “equipment and computer programs necessary to represent aircraft operations in ground and flight conditions” that can meet the criteria of “6-axis motion,” “[n]ight, dusk, and day visuals,” and “[d]ynamic control loading.” *Id.* at 30, 13.

ASI submitted a question to the agency about the FFS requirement included in the draft FOPR, asking whether the agency would consider previous experience with a weapon systems trainer systems integration lab (SIL), its high-fidelity training and simulation system, as relevant to the solicited effort. *Id.*, attach. 4, ASI Proprietary Question at 2. Of importance here, ASI indicated that “the SIL’s motion legs had . . . been removed” so that the device “has no physical motion components,” yet “it has had the majority of the other motion components and software.” *Id.* The protester expressed its view that the SIL “meets the criteria of the ECP [requirement] to be classified as one of the five motion devices.” *Id.* However, ASI asked the Air Force, if its interpretation differed, to either “consider adjusting the 6-DOF criteria” in the FOPR to “allow” this SIL experience to “count toward the five devices or reduc[e] the requirement down to four (4) motion-based devices.” *Id.* The agency declined to answer ASI’s question, citing its proprietary nature, and noting the agency’s obligation to ensure a fair and equitable competition for all potential offerors. *Id.*, attach. 5, Agency Resp. to ASI at 1.

Current Procurement

On January 30, 2026, the agency issued the current FOPR (No. FA862126RB004) under the TSA IV IDIQ MAC to contract holders in the unrestricted pool, using the procedures of Federal Acquisition Regulation section 16.505(b)(1). Protest, exh. 1, FOPR Evaluation Factors at 4. The solicitation anticipated award on a best-value tradeoff basis, considering certain price and non-price factors, to the responsible offeror whose proposal conforms to the FOPR and is assessed to be the most advantageous to the government. *Id.*

The solicitation evaluation scheme contemplated a two-step process. In step 1, the agency was to evaluate proposals under the technical factor, designated as the

conducted on twenty-nine FFS, eleven with 6-axis hydraulic motion bases and eighteen with electric motion bases,” where motion bases are “mechanical platforms that move the simulator cockpit in three-dimensional space.” *Id.*

⁵ The motion of 6-DOF is mechanically achieved by a device’s 6-axis motion. Req. for Dismissal at 3 n.3.

“[t]echnical [g]ate,” that consisted of two subfactors: 1) government-furnished property management experience, and 2) ECP experience. *Id.* at 4, 6. As relevant here, to receive a confidence rating above low confidence under the ECP experience subfactor, an offeror (or its teaming partner) had to demonstrate corporate experience executing ECPs “on at least five [FFSs] of the same device type.” *Id.* at 8. Only offerors determined to be the most advantageous to the government under the technical gate factor were to be considered in step 2, under the program resourcing and price factors. *Id.* Offerors not selected as the most advantageous to the government under the technical gate factor were to be eliminated from further consideration. *Id.* at 4.

ASI submitted a timely proposal by the March 3, solicitation closing date. To meet the ECP experience requirement, the protester submitted its [DELETED] contract, purporting to identify “five . . . FFSs,” a number that included its SIL experience as one of the five FFSs. Protest, exh. 3, ASI’s Proposal at 41-42. While evaluating ASI’s proposal, the agency contacted the designated point of contact identified for [DELETED] contract, who confirmed that there were only four FFSs on that contract and one SIL. Req. for Dismissal at 5-6; Protest, exh. 6, ASI Pre-Award Debriefing at 51. The contact noted that the SIL had been on a stationary base for the past seven years prior to FOPR release and had never been in motion at any time during the duration of the contract. *Id.*

On March 11, the agency asked ASI to explain, given the stationary base of the SIL, how that device meets the solicitation’s definition of an FFS. Protest, exh. 4, Interchange Notice and ASI Response at 44-45. The protester responded that the information received about the stationary base of the of SIL was “factually correct, but immaterial.” *Id.* at 46. Specifically, ASI argued that being stationary did not impact “the SIL’s classification or design” as an FFS, and that the SIL “has had these motion actuator [legs] and is ready to have them reinstalled as needed.” *Id.* at 46; Protest at 2.

Subsequently, the agency assigned ASI’s proposal a rating of low confidence under the ECP experience subfactor and excluded ASI’s proposal from further consideration. Protest, exh. 6, ASI Pre-Award Debriefing at 51. During a debriefing with ASI, the agency explained that the SIL relied upon by ASI to meet the ECP experience requirement “d[id] not meet the definition of an FFS” because it “did not have 6-axis motion capability at the time of the ECPs submitted to demonstrate FFS ECP experience.” *Id.*

This protest followed.

DISCUSSION

ASI challenges the agency’s exclusion of its proposal, arguing that the Air Force applied an unstated evaluation criterion that does not appear in the solicitation. Protest at 10-12; Comments at 3. Specifically, ASI contends that the FOPR does not include the “temporal and operational requirement” of an FFS relied upon by the agency, meaning the FOPR does not impose a requirement that “a simulator qualifies as an FFS only if

six-axis motion hardware was physically installed and operational at the precise time each ECP was executed.” Opp. to Req. for Dismissal at 2. ASI alleges that at a minimum, the solicitation was ambiguous regarding the definition of an FFS, and it was improper to exclude an offeror based on an undisclosed requirement. Protest at 13-14.

In response, the agency contends that ASI’s protest presents an untimely challenge to the solicitation evaluation criterion. Req. for Dismissal at 6-10. The Air Force notes that the protest references the question ASI submitted to the agency in November 2025 on what qualifies as an FFS. The agency contends that this question demonstrated that “ASI was unclear what the FOPR required” for a simulator to qualify as an FFS. *Id.* at 7. The agency argues that, despite this uncertainty, ASI failed to timely protest the FOPR criterion before the March 3, 2026 date for the receipt of proposals. *Id.* at 1.

The protester argues that it did not challenge the definition of an FFS used in the solicitation but instead, the agency’s interpretation as to “**when** specific capabilities must have been physically present on the device,” which was only revealed when ASI learned of the agency’s interpretation at the debriefing. Opp. to Req. for Dismissal at 2. We disagree with the protester.⁶

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without disrupting or delaying the procurement process. *Legal Interpreting Servs., Inc.*, B-422536 *et al.*, July 24, 2024, at 6. Our timeliness rules specifically require that a protest based upon alleged solicitation improprieties that are apparent prior to the closing time for submission of proposals must be filed before that time. 4 C.F.R. § 21.2(a)(1); *GSE, Inc.*, B-415135, Sept. 22, 2017, at 3. For protests other than those based on alleged improprieties that are apparent from the face of a solicitation, our timeliness rules require that a protester file no later than 10 calendar days of when the protester knew, or should have known, the basis of protest. 4 C.F.R. § 21.2(a)(2); *Millennium Space Sys., Inc.*, B-406771, Aug. 17, 2012, at 3-4.

In addition, when a dispute exists as to a solicitation’s requirements, we will first examine the plain language of the solicitation and will resolve the dispute by reading the solicitation as a whole and in a manner that gives effect to all of its provisions. *CMSoft, Inc.*, B-419370, Jan. 26, 2021, at 4. To be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Id.*; *Crew Training Int’l, Inc.*, B-414126, Feb. 7, 2017, at 4. If the solicitation is unambiguous, our inquiry ceases; an ambiguity exists, however, where two or more reasonable interpretations of the terms of the solicitation are possible. *Perimeter Security Partners, LLC*, B-422666.4, Mar. 11, 2025, at 5-6; *CMSoft, Inc.*, *supra* at 4.

⁶ Our decision does not discuss in detail every argument, or permutation thereof, raised by the protester. We have considered all of the protester’s arguments, however, and conclude that none provides a basis for finding the protest timely.

Here, the FOPR's instructions to offerors define an FFS, "[f]or the purpose of the technical evaluation," as:

a highly realistic and immersive training device that replicates a specific type, make, model, or series aircraft. It includes the equipment and computer programs necessary to represent aircraft operations in ground and flight conditions. It must meet the criteria below:

- 6-axis motion;^[7]
- A visual system with night, dusk, and day visuals; and
- Dynamic control loading.

Protest, exh. 2, FOPR Instructions to Offerors at 27. That definition is consistent with a definition included earlier in the questionnaire to the industry (an FFS "must be a six-axis motion simulator," see Req. for Dismissal, attach. 1, C-17 Training System Recompete Sources Sought Notice at 3), and in the draft FOPR (requiring that an FFS includes the "equipment and computer programs necessary to represent aircraft operations in ground and flight conditions" that can meet the criteria of a "6-axis motion," see *id.*, attach. 3, Draft FOPR at 30, 13). As discussed above, the latter FFS definition prompted ASI to submit a clarification inquiry to the agency and ask the Air Force, if it "does not agree with ASI's position," that the SIL qualifies as an FFS, to "consider adjusting the 6-DOF criteria to allow the [DELETED] SIL to count toward the five devices or reducing the requirement down to four (4) motion-based devices." Req. for Dismissal, attach. 4, ASI Proprietary Question at 2.

We conclude there was no ambiguity in the solicitation as to what device qualifies as an FFS. The solicitation clearly defined an FFS as a device possessing six-axis motion and "the equipment . . . necessary to represent aircraft operations in . . . flight conditions," among other prerequisites. Protest, exh. 2, FOPR Instructions to Offerors at 27. The instructions further required that the offeror demonstrate "corporate experience . . . as the prime contractor under a current or past US Government contract . . . executing ECPs on Full Flight Simulators." *Id.* at 26. Accordingly, reading these two provisions in concert, the Air Force correctly interpreted the FOPR to exclude experience executing an ECP on a device that did not qualify as an FFS. A device that did not have six-axis motion, or other equipment "necessary to represent aircraft operations in . . . flight conditions," by definition, was not an FFS--regardless of whether it once might have qualified as one at some point in the past. Accordingly, executing an

⁷ As noted above, the six-axis motion refers to the mechanical capability of a device to have six-DOF, including three translational movements: heave (up/down), sway (left/right), and surge (forward/back), and rotational movements around three axes. Req. for Dismissal, attach. 8, Bidders Library at 36-37.

ECP on a device without six-axis motion would not qualify as executing an ECP on an FFS.

In contrast, ASI's interpretation of the criterion is unreasonable because it is contrary to the plain terms of the solicitation. According to ASI, the specific capabilities described in the solicitation did not have to be physically present on the device at the time of ECP execution, as long as they once were or potentially could be added at a later time. However, this interpretation ignores the clear definition of an FFS set out in the solicitation and communicated to potential offerors during the industry discussions. The solicitation instructed that for the purpose of satisfying the ECP experience requirement, the experience had to be on a device with six-axis motion. See Protest, exh. 1, FOPR Evaluation Factors at 8 (stating that offerors had to demonstrate corporate experience executing ECPs "on at least five (5) full flight simulators (FFS) of the same device type"); Protest, exh. 2, FOPR Instructions to Offerors at 27 (stating that an FFS is "a highly realistic and immersive training device" with "6-axis motion."). Experience with the execution of an ECP on a device that did not have the full spectrum capabilities, as defined in the FOPR, was not the type of experience that the Air Force set out to evaluate.

ASI apparently recognized that its own interpretation may not have been shared by the agency, which was understandable since its own interpretation is unreasonable, and directly put the matter to the agency through a question. The agency, however, declined to express any view, yet the protester proceeded in the competition without obtaining resolution as to its own preferred view of what the solicitation required, perhaps assuming the agency would ultimately adopt ASI's position. ASI made such an assumption at its own peril. If ASI wanted the solicitation to permit the consideration of ECP experience on a device that did not have 6-axis motion, ASI should have challenged the clear and contrary definition of an FFS before the due date for proposals on March 3. See 4 C.F.R. § 21.2(a)(1). Because ASI's protest was not filed until April 27, it is now untimely and we dismiss it on this basis.

The protest is dismissed.

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General Counsel