



Decision

Matter of: A.B. Martin Services, Inc.

File: B-424616

Date: September 21, 2026

Shane Ahaus for the protester.

Matthew Vasquez, Esq., Department of Defense, for the agency.

Jacob M. Talcott, Esq., and April Y. Shields, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of the protester's quotation is dismissed where, even assuming the protester were to prevail on its allegations, the protester is unable to demonstrate that it was competitively prejudiced by the alleged errors.

DECISION

A.B. Martin Services, Inc. (ABMS), a small business of Springdale, Arkansas, protests the issuance of a purchase order by the Department of Defense, Defense Health Agency, under request for quotations (RFQ) No. HT940626QE009, to ZDAAS LLC, of Glen Burnie, Maryland, for the removal and installation of audiometric booths. The protester contends that the agency unreasonably evaluated its quotation.

We dismiss the protest.

BACKGROUND

On February 13, 2026, the agency issued the solicitation in accordance with the simplified acquisition procedures of Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO) part 12. Contracting Officer's Statement (COS) at 2. The solicitation sought a vendor to remove two existing audiometric booths and to install two new audiometric booths for diagnostic audiological testing at the Naval Health Clinic in

Cherry Point, North Carolina.¹ AR, Tab 4, SOW at 3. The due date for quotations was March 10, 2026. AR, Tab 3, RFQ at 17.

The solicitation provided for the issuance of a purchase order on a lowest-priced, technically acceptable basis. *Id.* at 19. For the technical quotation, the solicitation required vendors to demonstrate the ability to remove, supply, install, and validate two audiometric booths as provided in the SOW. *Id.* at 6, 19. As relevant here, the SOW provided that the maximum exterior height for the four-person audiometric booth was 97 inches. AR, Tab 4, SOW at 4. Any quotation that failed to comply with any of the requirements of the solicitation would receive a rating of technically unacceptable. RFQ at 19.

The agency received six quotations by March 10, including quotations from ABMS and ZDAAS. COS at 3. According to the contracting officer, because “all quotes were rated technically unacceptable,” the agency conducted negotiations with all vendors. *Id.* at 4. On April 2, the agency issued a negotiation letter to ABMS, explaining that its quotation was technically unacceptable because it “fail[ed] to have any information for the four-person audiometric booth” and accordingly, the agency could not determine whether ABMS met all SOW requirements. AR, Tab 31, ABMS Negotiation Letter at 1. ABMS’s response to the negotiation letter was due no later than April 8. *Id.*

On April 7, ABMS responded to the negotiation letter by submitting an email with two attachments. AR, Tab 37, ABMS Email Response to Negotiation Letter; Tab 38, ABMS Email Attachment One; Tab 39, ABMS Email Attachment Two. The body of the email summarized the features of the proposed audiometric booths as described in the attachments. AR, Tab 37, ABMS Email Response to Negotiation Letter at 1-2. With regard to the attachments themselves, the first attachment provided documentation of the “[f]eatures and [o]ptions,” as well as the design details, for a “standard” audiometric booth; the second attachment provided product literature for a multi-station audiometric booth. See AR, Tab 38, ABMS Email Attachment One; see *also* AR, Tab 39, ABMS Email Attachment Two. The agency forwarded the email attachments, but not the body of the email, to the evaluators. COS at 5. During the evaluation of revised quotations, the evaluators concluded that ABMS’s quotation was technically unacceptable because its four-person audiometric booth exceeded the maximum exterior height restriction of 97 inches. AR, Tab 43, Business Clearance Memorandum (BCM) at 6-7. The agency found ZDAAS’s quotation technically acceptable and then selected it for issuance of the purchase order of \$220,787. *Id.* at 7.

¹ As explained in the statement of work (SOW), the first audiometric booth was to be used by the audiologist/hearing conservation program manager for diagnostic evaluations. Agency Report (AR), Tab 4, SOW at 2. The second audiometric booth, which is the one relevant to this protest, was to be used for the audiological testing of up to four employees. *Id.* This booth is also referred to as “the four-person audiometric booth.” See *id.*

On April 30, the agency issued an unsuccessful vendor notice to ABMS and posted notice of the issuance of the purchase order on the System for Award Management website; ABMS requested a “debriefing” that same day.² COS at 6. The agency provided a brief explanation in accordance with RFO 12.301(b) on May 8. *Id.*; AR, Tab 45, Brief Explanation at 1. On May 13, ABMS filed an agency-level protest, challenging the agency’s evaluation of its quotation and the source selection decision. AR, Tab 47, Agency-Level Protest at 1. In its agency-level protest, ABMS argued, among other things, that the agency incorrectly concluded that “the proposed four-person audiometric booth exceeded the dimensional limitations.” *Id.* at 2. ABMS also raised “concerns” regarding whether ZDAAS had “an established sourcing and installation approach in place at the time of award.” *Id.* at 3. ABMS later filed a supplemental agency-level protest on May 27, asserting that ZDAAS continued to seek “manufacturing and installation support for this project after the . . . award date.” AR, Tab 48, Supp. Agency-Level Protest at 1-2; COS at 6.

The agency denied the agency-level protests on June 15, explaining that ABMS’s initial quotation failed to provide any information for the four-person audiometric booth and its revised quotation failed to meet the technical requirements of the solicitation. AR, Tab 49, Decision on Agency-Level Protests at 1-3; COS at 6. This protest followed.³

DISCUSSION

ABMS raises two main challenges to the agency’s evaluation of its quotation. Protest at 4-6. First, ABMS argues that the agency unreasonably concluded that it provided “no information” on the four-person audiometric booth in its initial quotation. *Id.* at 4. Second, ABMS contends that the agency unreasonably failed to forward the body of ABMS’s April 7 email to the evaluators. *Id.* at 7. While the protester claims that these alleged errors render the agency’s evaluation unreasonable, ABMS does not dispute the agency’s position that, ultimately, the protester’s revised quotation showed its four-person audiometric booth exceeded the solicitation’s 97-inch maximum exterior height

² Although labeled by ABMS as a request for a debriefing, see AR, Tab 46, Email Chain at 6, ABMS was not entitled to a debriefing under RFO part 12. Accordingly, the agency provided the protester with a brief explanation. AR, Tab 45, Brief Explanation at 1.

³ ABMS was not represented by counsel in this protest. Accordingly, our Office did not issue a protective order, and ABMS was provided only a redacted version of the agency report. In resolving the protest, we reviewed *in camera* unredacted copies of all evaluation and source selection documents and have based our decision on the full record. Because much of the information reviewed by our Office is source selection sensitive and proprietary in nature, our discussion of the evaluation is necessarily general to limit references to non-public information.

restriction. See, e.g., Comments at 3. For the reasons discussed below, we dismiss the protest.⁴

As stated above, ABMS first argues that, during the initial evaluation, the agency unreasonably concluded that its quotation failed to provide any information on the four-person audiometric booth. Protest at 4 (*citing* Protest, exh. 7, 4-Man Layout). The agency requests dismissal of this argument on the basis that, even assuming the protester's objection is meritorious, ABMS cannot demonstrate any reasonable possibility of competitive prejudice. Memorandum of Law (MOL) at 16. Specifically, the agency argues that the contracting officer based the source selection decision on the final evaluation and that this protest ground concerns a finding made only during the initial evaluation. *Id.*

We agree with the agency that dismissal is appropriate here. Competitive prejudice is an essential element of a viable protest; when the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the agency's evaluation of proposals are found. See *Classic Air*

⁴ Although ABMS raised additional arguments that we do not address in this decision, we have considered them and find none to be meritorious. For example, ABMS asserts that there are "serious questions" regarding ZDAAS's ability to meet the requirements and requests "[a]dditional [c]ontext" regarding the evaluation of the ZDAAS's quotation. Protest at 6. Specifically, ABMS argues that, on June 23--after the April 30 date of award--it learned that ZDAAS "intended to proceed with a different manufacturer." *Id.* According to ABMS, this alleged action raises concerns about the technical acceptability of ZDAAS's quotation. *Id.* We dismiss this argument because a challenge to a firm's post-award contract performance involves contract administration, which our Office does not review as part of our bid protest function. 4 C.F.R. § 21.5(a); *Fidelis Logistic and Supply Servs.*, B-414445, B-414445.2, May 17, 2017, at 8. While ABMS asserts that this protest ground is not "merely . . . a matter of post-award contract administration," ABMS relies entirely on post-award contract activity to support this protest ground. See Protest at 6.

As yet another example, ABMS argues that the agency engaged in unequal treatment, questioning whether the agency applied "the same evaluation standard" to ZDAAS as ABMS. Comments at 6; see also Protest at 6. Not only does ABMS fail to identify any portion of the technical evaluation that was unequal, it also fails to credibly allege that the quotations were substantively indistinguishable, as required for an allegation of unequal treatment. See *Jackson Healthcare, LLC*, B-420759.5, Aug. 26, 2022, at 4-5 (dismissing unequal treatment challenge because the protester failed to provide any evidence that the awardee's proposal was "substantively indistinguishable from, or nearly identical to" the protester's proposal). Accordingly, we do not further discuss these allegations.

Charter, Inc., B-421683.4, Jan. 19, 2024, at 10; see also *Airline Data Inc, LLC*, B-418472, Apr. 7, 2020, at 4.

Here, the negotiation letter, which the agency issued to ABMS after the initial evaluation, explained that its quotation was technically unacceptable because it “fail[ed] to have any information for the four-person audiometric booth” and accordingly, the agency could not determine whether ABMS could meet all SOW requirements. AR, Tab 31, ABMS Negotiation Letter at 1. In response, ABMS submitted documentation of the “[f]eatures and [o]ptions,” as well as the design details, for a standard audiometric booth; it also submitted product literature for a multi-station audiometric booth. COS at 5; AR, Tab 38, ABMS Email Attachment One; Tab 39, ABMS Email Attachment Two. The agency considered this information during the final evaluation and source selection decision and, as noted above, found that the exterior height for the four-person audiometric booth in ABMS’s revised quotation exceeded the solicitation’s maximum exterior height restriction. See AR, Tab 43, BCM at 6-7. Furthermore, as addressed herein, the protester does not contest the agency’s determination that its four-person audiometric booth exceeds the maximum height limit.

Thus, even if ABMS were correct that it was unreasonable for the agency to initially conclude that ABMS failed to provide any information on the four-person audiometric booth, ABMS cannot demonstrate prejudice because the agency provided ABMS an opportunity to address this finding prior to the final evaluation, to which the protester submitted a revised quotation.⁵ See *Classic Air Charter, Inc.*, *supra* (rejecting challenge

⁵ In its comments on the agency report, ABMS points out that the agency’s negotiation letter did not inform ABMS that the exterior height of the four-person audiometric booth exceeded the maximum height requirements of the solicitation. Comments at 3. Although not identified as such, this protest ground challenging the adequacy of negotiations raised for the first time in the protester’s comments constitutes a new basis of protest distinct from the protester’s initial protest grounds, and, therefore, we dismiss it as an untimely piecemeal presentation of protest issues. See *KSJ & Assocs., Inc.*, B-417850, Nov. 18, 2019, at 6 (dismissing protest ground raised in comments on the agency report that could have been raised in initial protest). As our regulations make clear, if a timely agency-level protest was previously filed, any subsequent protest to our Office must be filed within 10 days of actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a)(3). In its initial agency-level protest, ABMS argued, among other things, that the agency failed to seek clarifications regarding the dimensions for the four-person audiometric booth. See AR, Tab 47, Agency-Level Protest at 3. The agency denied ABMS’s agency-level protests on June 15. AR, Tab 49, Decision on Agency-Level Protests at 1-3. Accordingly, on June 15, ABMS knew, or should have known, of the initial adverse agency action concerning ABMS’s challenge to the adequacy of negotiations; the time to raise this challenge with our Office was within 10 days of that date. See 4 C.F.R. § 21.2(a)(3). ABMS instead did not raise this argument with our Office until it filed its comments on the agency report on August 6 and, therefore, it will not be considered.

to the agency's initial evaluation of the protester's documentation because the agency afforded the protester an opportunity to respond to that finding). Accordingly, this protest ground is dismissed.

Similarly, we dismiss ABMS's argument that the agency unreasonably failed to forward the body of the email that it sent in response to the agency's negotiation letter. Protest at 7. As previously stated, when the agency sent ABMS's email attachments to the evaluators, it did not forward the body of the email. COS at 5. Although ABMS contends that the agency's failure to do so negatively impacted the evaluation, the record does not support this claim. Instead, as the agency points out, even if the agency had considered the body of ABMS's email, the outcome of the procurement would remain the same because the body of the email contained only a summary of the email attachments and did not address the exterior height of the four-person audiometric booth. MOL at 17. Because ABMS's proposed four-person audiometric booth exceeded the height requirement, its quotation was determined to be technically unacceptable. See AR, Tab 43, BCM at 6-7. Indeed, ABMS has not identified any information in the body of the email to the contrary. Accordingly, ABMS cannot demonstrate that it was prejudiced by the agency's decision not to forward the body of the email to the evaluators as nothing within the body of the email would have resolved the excessive height issue. See *Classic Air Charter, Inc.*, *supra*.

The protest is dismissed.

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General Counsel