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**United States Government Accountability Office  
Washington, DC 20548**

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## **Decision**

**Matter of:** Kaseman, LLC

**File:** B-407797; B-407797.2

**Date:** February 22, 2013

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David S. Cohen, Esq., John J. O'Brien, Esq., and Gabriel E. Kennon, Esq., Cohen Mohr LLP, for the protester.

Michael J. Kraycinovich, Esq., and Scott A. Johnson, Esq., Department of the Army, for the agency.

Matthew T. Crosby, Esq., Glenn G. Wolcott, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

Protest that agency unreasonably and unequally evaluated proposals is denied where record reflects that evaluation was reasonable and consistent with solicitation's evaluation criteria and that differences in evaluation did not result from unequal treatment.

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### **DECISION**

Kaseman, LLC, of McLean, Virginia, protests the elimination of its proposal from the competitive range under request for proposals (RFP) No. W52P1J-11-R-0068, issued by the Department of the Army, for services in support of the agency's Logistics Civil Augmentation Program (LOGCAP). Kaseman argues that the agency's evaluation of its proposal was unreasonable and that the agency treated the offerors unequally.

We deny the protest.

### **BACKGROUND**

The solicitation, which was issued on June 15, 2012, contemplated the award of a single indefinite-delivery, indefinite-quantity contract with fixed-price and cost-plus-fixed-fee contract line items, and with a base period of one year and two 1-year option periods. RFP at 2. The solicitation stated that award would be made to the offeror whose proposal was determined to represent the best value to the

government, considering the following evaluation factors listed in descending order of importance: technical/management; past performance; cost/price; and small business participation. RFP at 93. For the technical/management factor, the solicitation instructed offerors to submit a proposal volume containing a description of the technical/management approach (DTMA) that the offeror would employ “to accomplish the requirements of the Performance Work Statement (PWS).” Id. at 84. The solicitation also instructed that “[a]t a minimum,” the DTMA must “address the offeror’s approach to staffing, subcontract management, and quality of services and provide a FTE [full time equivalent] (staffing) chart” for the following four overarching PWS requirements: program office support; Afghanistan deputy program management support; Kuwait deputy program management support; and contracting support.<sup>1</sup> Id. The solicitation stated that the DTMA must not exceed 55 pages. Id.

With respect to the technical/management factor, the solicitation stated that the agency would evaluate “the content of the DTMA” and “the feasibility of the offeror’s approach to accomplish the requirements of the [PWS].” Id. at 93. The solicitation also stated that the agency’s evaluation under the technical/management factor would consider “the impact of [an offeror’s technical/management] approach” on the four above-mentioned overarching PWS requirements. Id.

The agency received multiple proposals in response to the solicitation, including a proposal from Kaseman. A source selection evaluation board (SSEB) evaluated the proposals. Agency Report (AR), Tab 19-1, SSEB Report. The SSEB assessed two strengths and two deficiencies to Kaseman’s proposal under the technical/management factor. Id. at 12-14. As relevant to this protest, one of the deficiencies was that “Kaseman’s proposal fails to include its approach to execute the Government’s PWS requirements.” Id. at 14. Based on the deficiencies, the SSEB evaluated Kaseman’s proposal as unacceptable under the technical/management factor and “unawardable.” Id. at 12.

The contracting officer reviewed the results of the SSEB’s evaluation and noted that the SSEB had evaluated nearly all of the proposals as unacceptable under the technical/management factor. AR, Tab 20-1, Competitive Range Determination, at 2. The contracting officer decided to establish a competitive range. Id. Rather than exclude all proposals evaluated as unacceptable under the technical/management factor from the competitive range, the contracting officer decided to exclude only those proposals that he determined would require a major re-write or revision in order to be considered for award. Id. Thus, for each proposal—including Kaseman’s—the contracting officer made a written determination as to whether the

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<sup>1</sup> These four requirements comprised the substantive portion of the PWS—i.e., the portion of the PWS that set forth LOGCAP-specific performance requirements, rather than administrative requirements. See PWS §§ 5.00-7.00.

evaluated deficiencies and/or substantial weaknesses would or would not require a major re-write or revision for the proposal to be considered for award. AR, Tab 20-1, Competitive Range Determination at 3-8. For Kaseman's proposal, the contracting officer's determination included the following finding:

. . . Kaseman failed to provide an execution approach to the Government's requirements as identified in the PWS and workload assumptions. It is impossible to determine the feasibility of an offeror's approach to accomplishing the requirements of the PWS (RFP Section M.2.1.a) when the offeror fails to provide an approach as part of its proposal. To allow Kaseman to remain in the competitive range would require a substantial rewrite of its DTMA and protracted discussions.

Id. at 3. The contracting officer made almost identical findings for two other proposals that were excluded from the competitive range. Id. at 3-4.

The source selection authority concurred with the contracting officer's competitive range determination. Id. at 9. After being informed that its proposal had been eliminated from the competition, Kaseman requested and received a debriefing. AR, Tab 23, Kaseman Debriefing. This protest followed.

## DISCUSSION

As discussed above, the agency assessed two deficiencies to Kaseman's proposal, and it concluded that Kaseman's proposal could not be considered for award without a major re-write or revision. Kaseman argues that neither of the deficiencies was reasonable and that the agency should have considered its proposal for award. Comments at 1-25. Below, we discuss only one of the deficiencies. Because we find that this deficiency was reasonably assessed and that it alone provided a reasonable basis for the elimination of Kaseman's proposal from the competition, we need not address Kaseman's challenge to the other deficiency.

Contracting agencies are not required to retain a proposal in a competitive range where the proposal is not among the most highly rated or where the agency otherwise reasonably concludes that the proposal has no realistic prospect of award. Federal Acquisition Regulation § 15.306(c)(1); Wahkontah Servs., Inc., B-292768, Nov. 18, 2003, 2003 CPD ¶ 214 at 4. Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, exclusion from the competitive range is generally permissible. CMC & Maint., Inc., B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2. Proposals with significant informational deficiencies may be excluded, whether the deficiencies are attributable to either omitted or merely inadequate information addressing fundamental factors. American Med. Depot, B-285060 et al., July 12, 2000, 2002

CPD ¶ 7 at 6-7. In reviewing an agency's decision to eliminate a proposal from the competitive range, we will not evaluate the proposal anew, but rather, we will examine the agency's evaluation to ensure it was reasonable and in accord with the provisions of the solicitation; in this regard, a protester's mere disagreement with an agency's evaluation does not establish that the evaluation was unreasonable. CMC & Maint., Inc., supra.

Here, the record supports the agency's finding that Kaseman's proposal failed to include an approach to accomplish the requirements of the PWS, as required by the solicitation. As discussed above, the solicitation expressly required offerors to submit a proposal volume consisting of the "approach" that the offeror would use "to accomplish the requirements of the [PWS]." RFP at 84. Further, the solicitation advised offerors that the agency would evaluate "the feasibility of the offeror's approach to accomplish the requirements of the [PWS]." Id. at 93. Despite these solicitation provisions, the DTMA volume of Kaseman's proposal included almost no discussion or detail regarding how Kaseman would accomplish the numerous, specific requirements contained in the PWS. See AR, Tab 11-1, Kaseman Proposal, vol. II, DTMA. Instead, the bulk of Kaseman's DTMA volume provided general information about the firm and its teaming partners and discussed their practices and procedures for performing a professional services contract. See id. There was essentially no discussion of specific measures that Kaseman would take to accomplish the particular requirements of this solicitation.<sup>2</sup> Id. Accordingly, we find that the agency reasonably assessed a deficiency to Kaseman's proposal for a failure to include an approach to accomplishing the PWS requirements, as required by the solicitation.

Kaseman asserts that this deficiency could have been corrected through discussions and without a major revision to its proposal. Comments at 10-13. We find that these assertions provide no basis to object to the agency's exclusion of Kaseman's proposal from the competitive range. As discussed above, Kaseman's proposal included essentially no explanation of how the firm would accomplish the solicitation's specific requirements. Because the solicitation expressly instructed offerors to provide an approach to accomplishing the requirements and informed offerors that the feasibility of the approach would be evaluated, we think it is fair to say that providing such an approach was a core requirement for proposals. Considering that Kaseman's proposal lacked this fundamental element, we conclude that the agency reasonably determined that the proposal would require a major re-write or revision to be considered for award. Although Kaseman argues that it could have corrected the issue through discussions and a proposal revision,

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<sup>2</sup> Notably, the DTMA volume of Kaseman's proposal is 35 pages in length, which is 20 pages less than the length allowed by the solicitation. AR, Tab 11-1, Kaseman Proposal, vol. II, DTMA; RFP at 84.

an agency is not required to include in the competitive range a proposal that requires major revisions to be made acceptable. CMC & Maint., Inc., supra.

As a separate argument, Kaseman asserts that the solicitation did not require an offeror's proposal to include "an execution approach to the entire statement of work." Comments at 2-9. In support of this position, Kaseman cites the following provision from the solicitation's proposal submission instructions:

Content: At a minimum, the DTMA shall address the offeror's approach to staffing, subcontract management, and quality of services and provide a FTE (staffing) chart for the following requirements:

- (1) Program Office Support
- (2) Afghanistan Deputy Program Management Support
- (3) Kuwait Deputy Program Management Support
- (4) Contracting Support

Comments at 2-3 (quoting RFP at 84-85). Based on this provision, Kaseman argues that the solicitation included a limited requirement that offerors describe their approach to staffing, subcontract management, and quality of services and provide a staffing chart. Id. at 2. According to Kaseman, this provision shows that the solicitation did not require an offeror to provide "any other discussion . . . that would address the offeror's strategy for performing *each* of the PWS tasks." Id. (emphasis in original). We disagree.

Kaseman's interpretation of the solicitation ignores the express, fundamental purpose of the DTMA, which was to provide a written explanation of how the offeror would accomplish the requirements in the PWS. The solicitation established this by introducing the DTMA as a proposal volume that was to consist of an offeror's approach "to accomplish the requirements of the [PWS]." RFP at 84. An additional failing with Kaseman's argument is that the four requirements enumerated in the solicitation provision relied on by Kaseman directly correspond to four overarching, substantive areas of PWS requirements.<sup>3</sup> See PWS §§ 5.00-7.00. Accordingly, we read the solicitation provision cited by Kaseman to require that offerors address three areas--staffing, subcontract management, and quality of services--and provide a staffing chart in the context of the proposed methods to accomplishing the PWS requirements. To adopt Kaseman's interpretation of the solicitation as not requiring that offerors describe their approach to accomplishing the PWS requirements would compel us to ignore the fundamental, and express, meaning that the solicitation provided for the DTMA. We decline to do so, and this ground of protest is denied.<sup>4</sup>

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<sup>3</sup> See note 1, supra.

<sup>4</sup> Kaseman also argues that its interpretation of the solicitation as not requiring offerors' proposals to include an "execution approach" is correct because two other  
(continued...)

Kaseman also raises arguments claiming that the agency treated offerors unequally. Comments at 25-38. For example, Kaseman argues that the contracting officer failed to consider whether deficiencies identified in the competitive range proposals “would actually require a greater ‘rewrite’ than adding a PWS execution approach.” Id. at 25, 28-32.

As discussed above, the contracting officer made a written determination as to whether the deficiencies and significant weaknesses assessed to each proposal would or would not require a major re-write or revision for the proposal to be considered for award. AR, Tab 20-1, Competitive Range Determination, at 3-8. Deficiencies and significant weaknesses that the contracting officer determined would not require a major proposal re-write or revision included the failure to provide sufficient detail regarding one succinct component of the PWS; concern about the number of labor hours proposed for a succinct component of the PWS; and inconsistency between certain labor and/or cost levels listed in the DTMA volume versus the corresponding labor and/or cost levels listed in the cost volume. Id. at 5-8. Thus, contrary to Kaseman’s assertion, the record reflects that the agency did consider the degree of proposal revisions that would be required to resolve the deficiencies and significant weaknesses assessed to the competitive range proposals. Further, unlike Kaseman’s failure to propose an approach to accomplishing the PWS requirements, the deficiencies and significant weaknesses discussed above (which were associated with the competitive range proposals) do not appear to be global in nature or reflect a fundamental proposal omission. Therefore, we conclude that the contracting officer reasonably determined that the deficiencies and significant weaknesses assessed to the competitive range proposals would not require a major re-write or revision. Kaseman’s claim that the agency evaluated offerors unequally in this regard is denied.

As another example of Kaseman’s claims that the agency treated the offerors unequally, Kaseman argues that the agency assessed significant weaknesses to several competitive range proposals for issues that were “virtually identical” to issues that the agency cited in connection with a deficiency assessed to Kaseman’s

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offerors apparently interpreted the solicitation in a similar way. Comments at 5-9. In this regard, the record reflects that the contracting officer’s determination to exclude the two proposals in question from the competitive range included findings that the proposals failed to include an approach to accomplishing the PWS requirements. AR, Tab 20-1, Competitive Range Determination, at 3-4. The record, however, also reflects that the majority of the offerors included an approach to accomplishing the PWS requirements in their DTMA volumes. See id. at 4-8. In any event, Kaseman’s argument has no merit because, as discussed above, the solicitation unambiguously required offerors’ DTMAs to provide an approach to accomplishing the requirements of the PWS. See RFP at 84-85, 93.

proposal. Comments at 36-38. Kaseman argues that “[t]his is a clear indication of unequal treatment” because the agency considered the issues significant weaknesses for competitive range offerors, but connected the issues with a deficiency for Kaseman. See id. Again, we disagree.

Because of the nature of the issues (they relate to the level of proposed material, equipment, and other direct costs resources), we see nothing unreasonable about the contracting officer’s determination that the competitive range offerors could resolve them without a major proposal revision or re-write. Additionally, the contracting officer did not cite these issues in his determination to exclude Kaseman’s proposal from the competitive range. AR, Tab 20-1, Competitive Range Determination, at 3. Accordingly, we see no merit in Kaseman’s assertion that this aspect of the agency’s evaluation was unequal.

The protest is denied.<sup>5</sup>

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General Counsel

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<sup>5</sup> Kaseman raises a number of other arguments challenging the propriety of the agency’s evaluation. We have reviewed all of these arguments, together with the record, and conclude that none furnishes a basis on which to sustain the protest. For example, Kaseman claims that the contracting officer improperly failed to consider Kaseman’s proposed cost--which was lower than some competitive range proposals--before eliminating the firm’s proposal from the competition. Comments at 25-28. Because the agency reasonably found Kaseman’s proposal technically unacceptable, the agency properly could eliminate the proposal from the competitive range without considering its proposed cost. See TMC Design Corp., B-296194.3, Aug. 10, 2005, 2005 CPD ¶ 158 at 5; Systems Planning and Analysis, Inc., B-261857.2, Nov. 9, 1995, 95-2 CPD ¶ 218 at 3-4.