



GAO

Accountability \* Integrity \* Reliability

United States Government Accountability Office  
Washington, DC 20548

Comptroller General  
of the United States

**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

## Decision

**Matter of:** Silverback7, Inc.

**File:** B-408053.2; B-408053.3

**Date:** August 26, 2013

---

Christian B. Nagel, Esq., Lee Dougherty, Esq., and Katherine A. Straw, Esq., Fluet Huber & Hoang, PLLC, for the protester.

Joseph P. Hornyak, Esq., and Kelly A. Krystyniak, Esq., Holland & Knight LLP, for Pluribus International Corporation, an intervenor.

Kyle E. Chadwick, Esq., and Scott N. Flesch, Esq., Department of the Army, for the agency.

Nora K. Adkins, Esq., and Jonathan L. Kang, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### DIGEST

1. Protest challenging the evaluation of the offerors' proposals is denied where the evaluation was reasonable and consistent with the terms of the solicitation.
  2. Protest challenging the evaluation of the awardee's past performance record because it did not reflect performance in every area of the solicitation's performance work statement is denied where the solicitation did not require offerors to demonstrate that they had performed the exact same requirements.
- 

### DECISION

Silverback7, Inc., of Woodbridge, Virginia, protests the issuance of a task order to Pluribus International Corporation, of Alexandria, Virginia, by the Department of the Army, Intelligence and Security Command (INSCOM) under request for task order proposals (RFTOP) No. W911W4-G8RM-Services for non-personal services to provide program and resource management support. Silverback7, the incumbent contractor providing these services, challenges the agency's evaluation of Silverback7's and Pluribus' technical proposals and past performance.

We deny the protest.

## BACKGROUND

The solicitation, issued on December 14, 2012, to holders of OMNIBUS III Service Area 1 multiple-award indefinite/delivery, indefinite/quantity contracts, anticipated the issuance of a fixed-priced task order<sup>1</sup> for a base year and two one-year options. RFTOP at 38, 40. The RFTOP sought non-personal services subject matter experts to provide senior technical support to INSCOM headquarters and its subordinate organizations in the following areas: resource planning, resource programming, resource budgeting, resource execution, travel administration, congressional authorizations and appropriations, and resource oversight support. Id. at 38.

The RFTOP stated that the task order would be issued on a best value basis considering the following five factors: (1) management approach, (2) corporate experience, (3) staffing approach, (4) past performance, and (5) price. RFTOP at 14. The solicitation stated that factors one and two were of equal importance, with factors three and four listed in descending order of importance. Id. The non-price factors, when combined, were significantly more important than price. Id.

The Army received proposals from three offerors, including Silverback7 and Pluribus. The agency instructed the technical evaluation team, past performance team, and price analyst to identify and document strengths, weaknesses, significant weaknesses, deficiencies, ambiguities, and clarifications for each proposal. The agency's evaluation resulted in the following ratings for the protester and awardee:<sup>2</sup>

	Silverback7	Pluribus
<b>Management Approach</b>	Acceptable	Acceptable
<b>Corporate Experience</b>	Acceptable	Outstanding
<b>Staffing Approach</b>	Acceptable	Acceptable
<b>Past Performance</b>	Exceptional	Exceptional
<b>Price</b>	\$24,029,905	\$19,399,536

Agency Report (AR), Tab 12, Task Order Award Summary, at 14.

---

<sup>1</sup> The task order will also have cost reimbursement contract line items for travel and surge requirements. RFTOP at 40.

<sup>2</sup> An offeror's management approach, corporate experience, and staffing approach could receive one of the following ratings: outstanding, acceptable, or unacceptable. RFTOP at 15. An offeror's past performance could receive one of the following ratings: neutral, exceptional, satisfactory, marginal, or unsatisfactory. Id. at 16.

Silverback7 filed a protest with our Office on March 4, 2013, challenging the initial award to Pluribus. On April 3, the agency notified our Office of its intent to re-evaluate the offerors' past performance and issue a new award decision. We dismissed the protests as academic on April 8, 2013. See Silverback7, Inc., B-408053, Apr. 8, 2013. The agency's re-evaluation of past performance did not change the offerors' past performance ratings.

On May 6, 2013, based on consideration of the technical evaluation team's conclusions, the evaluation of past performance, and the price analysis, the contracting officer (who was also the source selection authority) concluded that Pluribus provided the best value offer. RFTOP at 15. Silverback7 received its notice of award decision and requested a debriefing, which was received on May 13. On May 20, Silverback7 filed the current protest with our Office.

## DISCUSSION

Silverback7 argues that the Army's evaluation of the task order proposals was unreasonable, and challenges the agency's evaluation with regard to every factor.<sup>3</sup> As explained in detail below, we conclude that the agency's evaluation of the protester's and awardee's proposals was reasonable and consistent with the solicitation. Although our decision does not specifically address all of Silverback7's arguments, we have fully considered each of them and find that none provides a basis to sustain the protest.

In reviewing an agency's evaluation, we will not reevaluate offerors' proposals; instead, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and procurement statutes and regulations. The Eloret Corp., B-402696, B-402696.2, July 16, 2010, 2010 CPD ¶ 182 at 12. An offeror's mere disagreement with the agency's evaluation is not sufficient to render the evaluation unreasonable. Id.

### Technical Evaluation

Silverback7 challenges the Army's evaluation of Silverback7's and Pluribus' technical proposals. Specifically, the protester asserts that the agency unreasonably evaluated its proposal under the management approach, staffing approach, and corporate experience factors. Silverback7 also argues that the agency unreasonably assessed Pluribus' proposal under the corporate experience factor. We find no merit to these arguments.

---

<sup>3</sup> Silverback7 withdrew its challenge to the agency's price evaluation. Protester's Comments (July 1, 2013), at n. 1.

### Management Approach

With regard to the Army's evaluation of Silverback7's management approach, the protester contends that the agency did not meaningfully consider each of the evaluation criteria set forth in the RFTOP, and failed to assign its proposal additional strengths. Silverback7 argues that if the agency had assigned it additional strengths, its proposal would have merited an outstanding rating.

The RFTOP provided that the agency's evaluation of an offeror's management approach would evaluate the extent to which the offeror's approach demonstrates sound and reasonable business practices for achieving quality results, based on the following considerations: method of effectively interfacing with its own organization, subcontractors, and the government; approach to innovation/process improvement and capability to rapidly implement changes; authority and levels of key personnel; approach to quality control; and transition plan. RFTOP at 15. The agency evaluation of Silverback7's management approach identified the following two strengths: (1) the protester's plan to provide [DELETED] qualified personnel on the first day after contract award, and (2) its plan to complete all transition activities within [DELETED] weeks of award. AR, Tab 9, Technical Evaluation-Silverback7, at 1. However, the agency concluded that these strengths resulted in an acceptable rating, and not exceptional rating, because both strengths would benefit the agency only during the transition period, and would not benefit the agency throughout the life of the contract. Id. at 3.

Silverback7 argues that the agency failed to fully evaluate its approach to innovation/process improvement and capability to rapidly implement changes. Specifically, Silverback7 contends that its proposed use of its [DELETED]<sup>4</sup> is a key component in its approach to innovation/process improvement, and allows it to rapidly identify and implement changes among its globally dispersed personnel. The protester asserts that if the agency had considered its proposed use of the [DELETED], its proposal would have received a strength.

In response, the agency asserts that it evaluated Silverback7's proposal in accordance with the solicitation criteria and considered Silverback7's proposed use of the [DELETED]. The contracting officer explained that "[w]hile the [DELETED] may be useful, the Government did not believe the [DELETED] would significantly increase the quality of service to the overall mission." Contracting Officer's Statement at 8.

Based on our review of the record, we find that the Army's evaluation of Silverback7's management approach was reasonable. Silverback7's arguments that it should have received a strength because the agency failed to consider its

---

<sup>4</sup> The [DELETED] is a [DELETED].

proposed use of the [DELETED] have been effectively rebutted by the contracting officer's explanations. In addition, while Silverback7 has offered its disagreement with the agency's evaluation judgments, it has provided us with no basis to conclude that those judgments were unreasonable. As a result, we find no merit to Silverback7's allegations.<sup>5</sup>

### Staffing Approach

Similarly, Silverback7 argues that it should have received a strength under the staffing approach factor for its proposal to provide [DELETED] qualified and trained personnel on the first day after contract award.

The solicitation stated that the agency's evaluation of an offeror's staffing approach would consider the extent to which the offeror's approach demonstrates a sound, rational, effective, and efficient plan to provide the following: adaptability and flexibility in fulfilling multiple positions; techniques for acquiring and retaining qualified personnel; and, adequate proposed staff who possess the required qualifications to meet the performance work objections in the performance work statement. RFTOP at 15. The agency's evaluation of Silverback7's staffing approach found one strength for its employee retention rate of [DELETED]. AR, Tab 9, Technical Evaluation-Silverback7, at 7. The agency did not assess a strength for Silverback7's proposal to provide [DELETED] personnel on the first day after contract award. See id.

As discussed above, the agency assigned a strength for Silverback7's proposal under the management factor based on its commitment to exceed the required fill rates for the first 60 days of contract performance. AR, Tab 9, Technical Evaluation-Silverback, at 7-9. The agency explains, however, that it did not find that this approach also merited a strength under the staffing factor because it did not demonstrate particular merit with regard to the specific criteria for this factor, that is, special adaptability, flexibility, hiring or retention techniques. AR at 16. While the protester urges us to conclude that the agency improperly failed to assign a second strength under the staffing approach factor, as well as the management factor, based upon our review of the record, we see nothing unreasonable about the agency's evaluation.

### Corporate Experience

---

<sup>5</sup> Silverback7 also argued that the agency failed to assign a strength for its knowledge of the corporate understanding of the business environment (CUBE) database. The agency in its report addressed Silverback7's claims in this regard, and Silverback7 did not respond to the agency's explanation in its comments. Thus, Silverback7 has abandoned this aspect of its protest. See Symplicity Corp., B-297060, Nov. 8, 2005, 2005 CPD ¶ 203 at 5 n.6.

Silverback7 also challenges the Army's evaluation of Silverback7's and Pluribus' corporate experience. Silverback7 contends that the agency's assignment of a weakness for Silverback7's reference to security and intelligence activities (S&IA) funding was unreasonable. The protester also complains that the agency's conclusion that Pluribus' proposal warranted an outstanding rating was improper since Silverback7, the incumbent, necessarily proposed corporate experience of the same or similar scope and should be rated equal to or higher than Pluribus.

The solicitation stated that the agency's evaluation of an offeror's corporate experience would be based on a consideration of: the extent to which the offeror demonstrated its experience and expertise; the number and complexity of its contracts/projects; and the degree of its participation in performing work of the same or similar scope as outlined in the performance work statement. RFTOP at 15. The RFTOP noted that the corporate experience evaluation would include an assessment of any subcontractors that will perform major aspects of the requirement. Id. at 15.

The agency's evaluation of Silverback7's proposal identified two strengths and one weakness. AR, Tab 9, Technical Evaluation-Silverback7, at 4. The strengths were assigned for the protester's prior work with INSCOM in the development of requirements for the CUBE database, and its demonstration of detailed knowledge concerning INSCOM programmatic processes. Id. The weakness was assigned for Silverback7's reference to S&IA funding in a number of places in its proposal. Id.

The agency explains that the solicitation does not use the term S&IA because INSCOM's funding associated with S&IA was replaced by military intelligence program (MIP) funding in fiscal year 2009. AR at 14; Contracting Officer's Statement at 9. As a result, the protester's use of the obsolete term (S&IA) raised concerns about its ability to provide senior level subject matter expert support of INSCOM's development, submission, and defense of its programs funded through MIP sources--not S&IA sources. AR, Tab 9, Technical Evaluation-Silverback7, at 4; Contracting Officer's Statement at 9. For this reason, the agency concluded that the proposal called into question the company's depth of experience and how well it could support that specific performance work statement requirement. Id.

Silverback7 argues that the weakness assessed for its use of the term S&IA was unreasonable because, the protester contends, the term is not obsolete. Protest at 12. The agency refutes the protester's assertions, explaining that S&IA is neither a funding source nor a funded program. Contracting Officer's Statement at 9. Rather, S&IA is a general term that defines activities in classified and unclassified security programs. Id. Moreover, as stated above, INSCOM no longer uses the term S&IA, and has not since fiscal year 2009, when it was replaced by MIP

funding. Thus, the agency asserts that it was reasonable for its evaluators to have doubts regarding the protester's understanding of INSCOM's requirements.<sup>6</sup>

Given the Army's explanation, we do not agree with the protester that the agency's assignment of a weakness contradicts its finding of a strength for Silverback7's demonstrated detailed knowledge of INSCOM programmatic processes under this factor. As the agency explains, Silverback7's knowledge of INSCOM's processes differs from its apparent misunderstanding of the names of the proper agency funding sources (i.e., S&IA or MIP). Contracting Officer's Statement at 10.

With regard to Pluribus' corporate experience, the agency evaluation found seven strengths. AR, Tab 10, Technical Evaluation-Pluribus, at 4-5. For example, Pluribus received strengths because its team currently employs more than 500 program and resource management professionals; its senior analysts have been provided multiple letters of appreciation and Commanders' coins; its subject matter experts currently serve as key players in preparing funding requests; and its proposed personnel demonstrated experience helping an intelligence command increase its annual funding. Id. The agency concluded that Pluribus' proposal demonstrated exceptional corporate experience by providing program and resource management support to the highest levels of DoD, the intelligence community, and INSCOM headquarters by supporting over 16 contracts with over 250 task orders and an estimated 20,000 deliverables. Id. at 7. The agency also noted that Pluribus' contractor team has been recognized through its continuous contract re-compete awards and extensions, as well as numerous letters of commendations for outstanding cost support. Id.; AR, Tab 10, Task Order Award Summary, at 14.

Silverback7 primarily contends that the agency's evaluation was improper because Pluribus should not have received a higher rating than Silverback7. The record shows that Silverback7 was assigned an acceptable rating because the agency concluded that its strengths were offset by the weakness. On the other hand, the record shows that the agency found that Pluribus provided extensive examples of its corporate experience, which merited seven strengths and no weaknesses. Silverback7's assertions are no more than disagreement with the agency's evaluation.<sup>7</sup> On this record, we find that the Army conducted a fair and reasonable

---

<sup>6</sup> Silverback7 notes that the Army awarded it a bridge contract in March 2013, in order to ensure continuity of services as a result of its initial protest, and that this bridge contract used the term S&IA. The agency explains, however, that a reference in the bridge contract to S&IA was in error, due to the agency's use of an outdated form, and in any event, does not alter the fact that S&IA is an obsolete term within INSCOM. Contracting Officer's Statement at 10.

<sup>7</sup> In response to the agency report, Silverback7 also alleges that the agency improperly relied upon the corporate experience of Pluribus' subcontractors in finding seven strengths and ultimately assigning an outstanding rating. We find  
(continued...)

evaluation of Silverback7's and Pluribus' proposals, consistent with the RFTOP criteria.

### Past Performance

Next, Silverback7 challenges the agency's evaluation of Pluribus' past performance, arguing that the agency unreasonably determined that there was essentially "no doubt" that Pluribus could perform the requirement. AR, Tab 10, Technical Evaluation-Pluribus, at 13. The protester contends that the single past performance reference provided by the awardee was not fully relevant, and thus should not have merited an outstanding rating.

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented. The McConnell Group, Inc., B-405377, Oct. 21, 2011, 2011 CPD ¶ 225 at 3; L-3 Sys. Co., B-404671.2, B-404671.4, Apr. 8, 2011, 2011 CPD ¶ 93 at 4. The evaluation of experience and past performance, by its very nature, is subjective; we will not substitute our judgment for reasonably based evaluation ratings, and an offeror's mere disagreement with an agency's evaluation judgments does not demonstrate that those judgments are unreasonable. Glenn Def. Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 7.

For past performance, the solicitation permitted an offeror to identify up to three recent and relevant contracts. RFTOP at 13. The RFTOP defined recent contracts as those performed within the past three years, and a relevant contract as one involving a similar type, scope, and size of work as here. Id. The solicitation stated that overall relevancy of past performance would be determined by the extent to which an offeror's past performance is comparable and related to the objectives of the procurement, and the extent to which it is of similar scope to the work that is described in the performance work statement. Id. at 16. After determining relevance, the past performance evaluation would also examine the extent to which an offeror's past performance demonstrates its capability and capacity to successfully perform the contract. Id. at 16-17.

---

(...continued)

nothing unreasonable about the agency's consideration of Pluribus' subcontractors under the corporate experience factor. The RFTOP expressly noted that the corporate experience evaluation would include an assessment of any subcontractors that would perform major aspects of the requirement. Id. at 15. Silverback7 has not alleged that the agency deviated from, or improperly applied, this solicitation provision in evaluating the subcontractor references.



The agency's evaluation of Pluribus' past performance found one relevant past performance questionnaire for a task order valued at \$37,204,018, which was issued under a Defense Intelligence Agency (DIA) contract to provide 53 subject matter experts. Supp. AR (July 11, 2013), at 2; AR, Tab 10, Technical Evaluation-Pluribus, at 11. The evaluators concluded that this reference was relevant in scope to four of the seven PWS requirements: financial management support, manpower resource management support, program execution, and organization support. AR, Tab 10, Technical Evaluation-Pluribus, at 11. The evaluation team found that, based upon the past performance information received, Pluribus received equal ratings of exceptional and satisfactory in all areas assessed on the DIA contract. Id. at 13. The evaluation team concluded that Pluribus' reference demonstrated a "highly effective management effort and excellent response when requirements were changed or modified," and that Pluribus had provided "highly qualified individuals in key areas [that] were able to effectively support multiple distributed units simultaneously." Id. Based upon this information, the agency concluded that Pluribus demonstrated essentially no doubt that it would be able to successfully perform the required effort, and assigned an outstanding rating. Id.

Silverback7 argues that Pluribus' single past performance reference was not fully relevant to all of the PWS requirements, and therefore did not demonstrate Pluribus' capability and capacity to successfully perform the entire contract. For this reason, the protester argues that the awardee's single past performance reference could not have reasonably merited an outstanding rating.

Based upon our review of the record, we find that the agency's past performance assessment was reasonable and adequately documented. Even though the agency's assessment was based upon only one relevant reference, the solicitation did not require an offeror have past performance experience with respect to every requirement of the performance work statement, nor did the solicitation state that an offeror must demonstrate past performance with regard to all seven areas of the PWS to merit an outstanding rating. Instead, the solicitation advised that past performance would be evaluated based on the extent to which an offeror's past performance is comparable and related to the objectives of the procurement, and the extent to which it is of similar scope to the work that is described in the performance work statement. In light of the agency's broad discretion to determine whether a particular contract is relevant to the evaluation of an offeror's past performance, we find no basis to question the agency's conclusion that Pluribus' past performance merited a rating of outstanding.

## Selection Decision

Finally, Silverback7 argues that the Army's selection decision was unreasonable. The protester contends that the source selection authority relied on adjectival ratings without considering the underlying merits of the offerors' proposals.

We think that the record shows that the agency's selection decision did not rely on the adjectival ratings alone. In this regard, the selection decision summarizes the strengths and weaknesses for each offeror, and why those strengths and weaknesses support the adjectival ratings assigned to the offerors' technical proposals. AR, Tab 12, Task Order Award Summary, at 5-8, 14-15. The source selection authority concluded that while Silverback7 and Pluribus were equal with regard to management and staffing approach, Pluribus provided a superior approach in its response to corporate experience, as well as a lower proposed price. Id. at 15. On this record, we find no basis to conclude that the selection decision was unreasonable.

The protest is denied.

Susan A. Poling  
General Counsel