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Decision

Matter of: Phoenix Air Group, Inc.

File: B-412796.2; B-412796.3

Date: September 26, 2016

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DIGEST

1. Protest that agency misevaluated awardee's proposal under offer acceptability criterion is sustained where agency rationale for evaluating awardee's proposal as acceptable was inconsistent with contemporaneous record.
 2. Protest that agency misevaluated proposals is sustained where agency applied unstated evaluation criteria in evaluating protester's proposal.
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DECISION

Phoenix Air Group, Inc., of Cartersville, Georgia, a small business,¹ protests the award of a contract to Tempus Jets, Inc., of Williamsburg, Virginia, also a small business, by the Department of the Interior under request for proposals (RFP) No. D15PS00481, for commercial electronic warfare aircraft services for the Department of the Navy, Naval Sea Systems Command, in various locations.² Phoenix argues that Interior misevaluated both firms' proposals, unreasonably failed to hold discussions, and made an unreasonable source selection decision.

¹ We describe Phoenix as small based on the representation in its proposal that the firm is a veteran-owned small business.

² The RFP lists Bath and Portland, Maine; Norfolk and Wallops Island, Virginia; Jacksonville and Pensacola, Florida; Pascagoula, Mississippi; and Port Hueneme, California, and states that other locations will be designated during performance.

We sustain the protest.

BACKGROUND

Interior issued the RFP on November 16, 2015, as an unrestricted commercial item solicitation, seeking proposals to provide electronic warfare test and evaluation services for integrated warfare systems. RFP §§ A1, C6. The required services consisted primarily of supplying and operating at least five turbo-jet aircraft, ground support personnel, flight crews, and electronic technicians, to conduct flight operations consistent with military standards in the form of electronic warfare testing missions under a single indefinite-delivery, indefinite-quantity contract for a base year and four option years. Id. § A2, B1.1.

Sections A and B of the RFP set forth the Navy's requirements for the aircraft and crew, and provided a table for each offeror to identify by make, model, and Federal Aviation Administration (FAA) registration number (its tail number or "N#"), the specific aircraft it proposed to utilize. Id. § A2. The aircraft were to consist of two "exclusive use" aircraft, three additional "on-call" aircraft and optionally, two "substitute on-call" aircraft.³ RFP §§ A1, A2, A5. The RFP listed eight "Minimum Aircraft Requirements," such as meeting specific cruising speed and endurance requirements, having 1,200 pounds available payload, and meeting "special requirements." Id. § A1. The "special requirements" were "Aircraft modifications per STC [supplemental type certificate⁴] to accommodate tow reels for towed targets and special mission equipment as specified in Section B." Id. In effect, the required modifications were principally to add wing hard points, towing equipment (principally tether reels to allow targets to be deployed from the aircraft on a cable several miles long, and then retrieved), and the ability to operate a variety of other electronic warfare-related equipment. Id. §§ A1, B8; see also Agency Report (AR) Tab 4, Acquisition Plan, at 8-9.

³ Only the exclusive use and on-call aircraft were required. Two substitute on-call aircraft could be offered "if an offeror ha[d] additional aircraft" that met all contract requirements, but no evaluation credit would be given for offering substitute on-call aircraft. RFP amend. 1, Questions & Answers attach. at 2 (Item No. 6).

⁴ A "type certificate" is issued to a civil aircraft manufacturer to reflect that an aircraft meets airworthiness standards. When an aircraft is modified, the FAA "must evaluate the changed product. After finding that the changed product complies with the prescribed airworthiness standards, [the FAA] will issue an STC[.]" FAA Advisory Circular No. 21-40A, "Guide for Obtaining a Supplemental Type Certificate" (Sept. 27, 2007 ed.) at 1. The acquisition plan here describes the process of obtaining a new STC as requiring an "arduous" wait for FAA approval, and being very expensive. AR Tab 4, Acquisition Plan, at 3.

The RFP specified that much of the specialized equipment was to be provided by the Navy. Accordingly, the RFP stated that the contractor had to “properly manage, maintain, and safeguard all Government Property (GP),” required that “[a]ll GP [had to] be maintained in accordance with FAR [Federal Acquisition Regulation §] 52.245-1,” and indicated that specific items had to be “fully maintained by the Contractor.” RFP §§ A1, B5, B8.3.1.

Section B of the RFP contained over 100 provisions addressing numerous aspects of performance, such as the types of flight missions, the navigational systems, avionics equipment, special equipment, and flight operations. The provisions included specifications that ranged from having current aeronautical charts, and at least two fire extinguishers on board, to a lap belt for each passenger seat.

The specifications also included a requirement to perform weight and balance checks for each aircraft by the start of the contract, and after completion of any aircraft modifications:

The aircraft’s required weight and balance data shall be determined by actual weighing of the aircraft within 24 calendar months preceding the starting date of the contract, or renewal period, and following any major repair or major alteration or change to the equipment list which significantly affects the center of gravity of the aircraft.

Id. § B29.

The RFP required that proposals indicate agreement to the RFP requirements, demonstrate the offeror’s capability, and provide daily and hourly prices for each aircraft and crew category. Id. §§ A2, D4.

The RFP also directed offerors to include several completed forms (attached as RFP exhibits 12 through 16). Id. § D4.4. The first was an “Offeror’s Capability Form,” which directed offerors to provide a narrative of up to 30 pages discussing several specific issues. Id. § D4.4.3 & exh. 12. The RFP also provided two forms regarding the qualifications of each pilot-in-charge and each second-in-charge. Id. §§ D4.4.4-D4.4.5 & exhs. 13 & 14. There was also a form to provide information about organizational experience and past performance. Id. § D4.4.7 & exh. 16. Of relevance to this dispute is the aircraft questionnaire form, on which the offeror was required to list the make, model, and registration number of each aircraft, the age of its airframe and each of its engines, its last inspection date, its most recent weight-and-balance report date, and to identify any work or modifications needed for contract performance. Id. §§ D4.4.6-D4.4.6.1 & exh. 15.

The RFP stated that the evaluation of proposals would first involve an offer acceptability determination. Offer acceptability would be determined by whether the proposal had assented to the RFP’s terms, had provided “all information requested,”

had not taken exception to the terms of the RFP, and had offered aircraft that met the minimum aircraft requirements in RFP § A1. Id. § D7.

For those proposals found acceptable, the agency anticipated making a qualitative evaluation of each offeror's capability and determining the proposal's total evaluated price. Id. §§ D7, D8, D9. The offeror capability evaluation was to be based on three subfactors, in descending order of importance: aircraft operations capability, organizational experience, and organizational past performance. Id. §§ D6.3.2, D8.1. As relevant to the protest, the first subfactor would be evaluated to assess

the performance risk associated with an offeror's capability to perform the commercial aircraft services described in Sections A and B. The Government also will evaluate the capability of each offered aircraft by considering published flight manual airspeeds, payload, and other attributes. However, an aircraft payload that is unsupported by the aircraft's latest weight and balance report, complete equipment list, and appropriate performance charts may be evaluated as high risk and evaluation for the offered aircraft may be impacted.

Id. § D8.2.

The agency anticipated making one award based on a tradeoff under which overall offeror capability was significantly more important than price. Id. § D6.3.1. Each of the offeror capability subfactors--taken individually--was also more important than price. Id. § D6.3.2.1.

On November 16, the agency issued amendment 1 to the RFP, which provided answers to questions from prospective offerors and included the following:

[Question] 5. The table [RFP § A2] seems to require that offered aircraft registration numbers be assigned specifically under three classifications [exclusive use, on-call, or substitute]. May all seven [] aircraft be placed in a pool of aircraft to be used . . . when needed?

[Answer] 5. No. The contractor must designate two EU [exclusive use] and 3 OC [on-call] aircraft. . . .

[Question] 11. The schedule states that the contract's performance period starts on March 1, 2016. [If an offeror other than the incumbent contractor is selected for award,]⁵ what is the available extension for consideration for the start date of the contract?

⁵ Preceding bracketed phrase is so marked in original.

[Answer] 11. Although the solicitation's Schedule of Services/Prices indicates a March 1st start date, an offeror may put the Government on notice that its offer is conditioned on a later start date. The Government can extend the current contract to "bridge" between March 1st and a later proposed start date. The "bridge" extension to the current contract cannot exceed six months (through August 31, 2015).

RFP amend. 1, attach. 2, at 2-3 (Questions & Answers).

Interior received three proposals from two firms by the December 29, 2015, revised due date. RFP amend. 1 at 1. One proposal was from Phoenix, the incumbent contractor, and Tempus submitted two proposals: a primary and an alternate. Except where stated, the remainder of this decision addresses only Tempus's alternate proposal, which Interior selected for award.

Phoenix Proposal

Phoenix's price proposal identified its seven aircraft and provided pricing using the solicitation's estimates. AR Tab 9, Phoenix Proposal, vol. I, at 3-5. In its technical proposal, Phoenix described an approach based on practices and equipment already in use under its incumbent contract. Phoenix stated that it had more than seven aircraft fully equipped to meet the contract requirements but, as required by § A2 of the RFP, it identified seven specific aircraft--a combination of Learjet 35/A and 36/A model aircraft. AR Tab 9, Phoenix Proposal, vol. I, at 6.

Consistent with the RFP's instructions, Phoenix's technical proposal was organized according to the forms specified in the RFP. On the offeror capability form, Phoenix provided the required narratives discussing the issues specified in the form. AR Tab 9, Phoenix Proposal, vol. II, at 6-20. After the offeror capability form, the proposal provided completed qualifications forms for its flight crew. Id. at 22-46. Phoenix also submitted completed experience and past performance forms for aircraft services contracts with Interior and NAVAIR, an FAA authorization of towing operations, and copies of five STCs issued by the FAA for specific modifications to Phoenix's proposed aircraft. Id. at 70-123.

Of relevance here, Phoenix's proposal identified the aircraft being offered, their capabilities, performance specifications, communications and navigation equipment, and special mission modifications along with a list of the external equipment that had been successfully operated on the aircraft. Id. at 47-48. For each proposed aircraft, the proposal provided an aircraft questionnaire form (and Department of Interior aircraft data card), as well as NAVAIR flight approval documents. Id. at 49-69.

Tempus Proposal

Tempus's alternate proposal similarly began with the offeror capability form, in which the firm explained that its proposed approach was to obtain seven aircraft "immediately following an award;" make required modifications and obtain the certifications, approvals, and checks for each aircraft; and begin performance [DELETED] after award. AR Tab 8, Tempus Alternate Proposal, vol. II, at 1, 17. As relevant to the protest, Tempus proposed to utilize two [DELETED] aircraft as the exclusive use aircraft. For its on-call aircraft, Tempus proposed a third [DELETED] and two [DELETED] aircraft. Id., at 1. As substitute aircraft, Tempus proposed two [DELETED] aircraft. Id. Tempus stated that it had entered into negotiations to procure the [DELETED] aircraft, and intended to conclude the purchases immediately upon award. Id.

Tempus's proposal included a notional schedule⁶ for aircraft modifications, crew training, and aircraft approval during a [DELETED] period after award. Id., at 17. The proposal stated that "[a]ll of the necessary modification data including approved STC data can be immediately purchased from the STC holders" (i.e., from other firms), and explained that "the available STC's provide[] confidence for an efficient modification schedule." The proposal also stated that Tempus expected to purchase STC data and rights for "[DELETED]" and "[DELETED]." Id., at 1. In a table, Tempus listed the specific sources for its seven STCs, and indicated that it would need to amend one STC and apply for five "new" STCs.⁷ Id. at 16.

Much of Tempus's proposal paraphrased requirements from RFP sections A & B by revising the requirements into statements that Tempus's aircraft (or equipment or crew as appropriate) would comply. Id., at 9-14. The proposal also provided a property management plan that discussed the tracking and management of government-furnished property. Id. at 26-28.

In support of its proposed approach, Tempus attached a nonbinding memorandum of understanding (MOU) between an investment firm and an entity identified as [DELETED].⁸ Id., attach. 3, at 1-3. The MOU stated that the investment firm anticipated [DELETED] aircraft that could be leased to [DELETED]. Id.

⁶ The schedule lists eight discrete activities. For two entries the schedule refers to "Aircraft 1," and all other items refer non-specifically to "Aircraft," thus providing no specific information about modification and airworthiness approvals for the other aircraft--apart from an event at day 120 that reads simply "A/C 1-5 Delivered." Id.

⁷ All STCs for the [DELETED] aircraft (which as noted above, were proposed as the exclusive use aircraft) were to be new.

⁸ The proposal does not otherwise identify [DELETED], or describe its relationship to the offeror, Tempus. During this protest, the chief executive officer (CEO) of Tempus submitted a declaration stating that the MOU was "signed by me as CEO,"

Additionally, the proposal provided a letter of intent between [DELETED] and the owner of [DELETED], (one of the on-call aircraft identified in Tempus's proposal) that granted Tempus an option to purchase that aircraft within 90 days. Id., attach. 4, at 1.

Initial Award Announcement

On February 9, 2016, Interior announced its intention to award a contract to Tempus, and informed Phoenix that the agency would extend Phoenix's incumbent contract for 6 months (i.e., through August 31). Phoenix filed a protest with our Office challenging the award. On March 3, Interior submitted a letter to our Office, which explained that the announced decision was still under review, had not been finalized, and the agency would reevaluate the proposals, hold discussions if appropriate, and make a new source selection decision. Letter from Counsel for Interior to GAO, Mar. 3, 2016, at 1. Our Office dismissed Phoenix's protest as academic.

Reevaluation and Award

Interior assigned a new contracting officer to act as the source selection authority (SSA), and began to reevaluate the original proposals. The evaluators assigned adjectival ratings for each capability subfactor, for risk, and for the organizational experience and past performance subfactors. As relevant here, the adjectival ratings available for the offeror capability subfactors were exceptional, very good, satisfactory, marginal, and unsatisfactory. AR Tab 15, Award Summary, at 6-7. The available risk ratings were low, moderate, and high. Id. at 7.

Under the aircraft operations capability subfactor, the evaluators completed a "Section A & B Compliance Matrix," which separately listed 107 specifications from sections A and B of the RFP, and entered a "go" or "no go" for each specification for each proposal. AR Tab 15, Award Summary, attach. 1. The matrix entries rated Phoenix's proposal as "no go" for approximately half of the specifications--most accompanied by a comment that the proposal did not address the specification. Id. at 25-37. In contrast, the matrix entries rated Tempus's alternate proposal as "go" under nearly all specifications because, as explained above, the proposal essentially repeated each of the requirements within Sections A and B of the RFP, and expressly committed to performing each one. The evaluators rated Tempus "no go" under the NAVAIR and AMC certification requirements which, the evaluators noted, Tempus would be unable to meet "until they get the award." Id. at 26.

apparently to imply that Tempus and [DELETED] are affiliates. Intervenor's Comments, attach. A, Declaration of Tempus CEO, at 2.

Aircraft Operations Capability Evaluation

In evaluating Phoenix's proposal under the aircraft operations capability subfactor, the evaluators identified as strengths the firm's proposal of five aircraft that exceeded the minimum aircraft endurance requirement, the proposal's large number of qualified pilots and second-in-command personnel, and the firm's experienced maintenance personnel and managers. AR Tab 12, Evaluation Report, at 2. Referring to the specifications in the matrix rated "no go," the evaluators assigned 50 weaknesses to the proposal. Id. They assigned one additional weakness for insufficient detail regarding "[DELETED] . . . all of which are all necessary to conduct specialized operations." Id. The evaluators also assigned two deficiencies to Phoenix's proposal: the first because the proposal did not include a property management plan, and the second because two of its aircraft information forms did not identify weight and balance checks that were performed within the previous 24 months. Id. at 3. As a result, the evaluators rated Phoenix's proposal marginal and moderate risk under the aircraft operations capability subfactor. Id. at 4; AR Tab 15, Award Summary, at 11-12.

In evaluating Tempus's proposal, the evaluators identified as strengths that the firm had proposed seven aircraft (two exclusive use, three on-call, and two optional substitute aircraft), three [DELETED] aircraft that exceeded the RFP's requirements, and two [DELETED] aircraft that also exceeded the requirements.⁹ AR Tab 12, Evaluation Report, at 5-6. The evaluators also identified strengths for Tempus's plan to [DELETED], its approach to providing mechanical support [DELETED], its agreement to [DELETED], and its use of [DELETED] at no charge. Id. at 6. The evaluators identified no deficiencies, and a single weakness: the need for Tempus to obtain certifications and approvals for the modified aircraft, and the resulting potential for disruption to the schedule, increased cost, or degradation of performance because "the aircraft model currently lacks these certifications/clearances." Id. at 6-7. The evaluators rated Tempus's proposal very good and moderate risk under the aircraft operations capability subfactor. Id. at 6.

⁹ The contracting officer adds that, as part of the evaluation, the agency also reviewed the FAA registry information for Tempus's proposed aircraft.

Source Selection Decision

The overall reevaluation ratings and evaluated prices were as follows:

	Phoenix	Tempus (primary)	Tempus (alternate)
Aircraft Operations Capability	Marginal	Very Good	Very Good
Risk	Moderate	Low	Moderate
Organizational Experience	Satisfactory	Marginal	Marginal
Organizational Past Performance	High Satisfaction	High Satisfaction	High Satisfaction
Weaknesses	51	1	1
Strengths	3	6	7
Deficiencies	2	0	0
Total Evaluated Price	\$28.0 million	\$24.7 million	\$25.6 million

Contracting Officer's Statement (COS) at 11.

On June 6, the SSA determined that Phoenix's proposal should not be considered further because it was lower rated and higher priced than Tempus's proposals. AR Tab 15, Award Summary, at 23. The SSA conducted a tradeoff between Tempus's two proposals, concluded that the alternate proposal provided the best value, and selected it for award. *Id.* at 24. Following a debriefing, Phoenix filed this protest.

ANALYSIS

Phoenix raises numerous challenges to the evaluation and source selection.¹⁰ Stated broadly, Phoenix first challenges the evaluation of Tempus's proposal under the offer acceptability standards. The protester also argues that the agency misevaluated both proposals under the aircraft operations capability subfactor, particularly by applying unstated evaluation criteria and evaluating the offerors unequally. Phoenix further argues that Interior should have held discussions because the criticisms of Phoenix's proposal were minor and easily remedied, and because Interior assessed uncertainties in Tempus's approach. We have reviewed the protester's challenges, and discuss selected examples below. Since we conclude that the evaluation of proposals was unreasonable and inconsistent with the terms of the RFP, we sustain the protest.

¹⁰ Although Tempus argued that Phoenix is not an interested party because its proposal was nominally third in line for award, we view the protester as an interested party because Tempus submitted both of the other competing proposals and because the protest challenges the evaluation of both firms' proposals.

Offer Acceptability Evaluation

As described above, the RFP established two criteria for offer acceptability, one of which was proposing aircraft that met a list of minimum requirements. RFP § D7. In its combined comments/supplemental protest, Phoenix argues that Tempus identified seven specific aircraft (each identified by its tail number) in volume I of its proposal, but failed to provide the required aircraft questionnaire form for one of them.¹¹ In this regard, Tempus listed a [DELETED] bearing tail number [DELETED] as the second on-call aircraft in its pricing proposal. See AR Tab 8, Tempus Proposal, vol. I, at 2. However, Tempus's technical proposal did not include an aircraft questionnaire form for that aircraft. Instead, Tempus provided an aircraft questionnaire form for a different aircraft (a different tail number, also a [DELETED]) as its second on-call aircraft. AR Tab 8, Tempus Proposal, vol. II, at 44.

Initially, Interior responded that the offer acceptability evaluation was to determine whether the proposal offered to meet basic aspects of the RFP, thus the RFP required specific information about each aircraft the offeror was proposing to use "as well as [its] FAA Registration Number" for offer acceptability, and "Tempus provided the required information." AR at 5.

However, after Phoenix pointed out that Tempus had identified two different aircraft for its second on-call aircraft, the agency abandoned its initial contention that the RFP required specific information for each proposed aircraft, and its related contention that Tempus had provided the required information. Instead, the agency now argues that only the aircraft make and model were "integral to the offer." Compare AR at 3, with Supplemental AR at 3-4. As a result, the agency now contends that the conflicting aircraft registration numbers have no impact on the offer acceptability evaluation. Supplemental AR at 4.

Our Office will review a protester's challenge to an agency's technical evaluation, by examining the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. CACI-ISS, Inc., B-412074, Dec. 21, 2015, 2016 CPD ¶ 35 at 6 n.6.

Interior's view that Tempus's proposal met the acceptability criteria despite proposing one aircraft in its § A2 table but providing an aircraft information form about a different aircraft, is unreasonable and inconsistent with the RFP. The RFP expressly required offerors to identify each aircraft by its unique FAA registration

¹¹ Although Phoenix also argues that Tempus's proposal to purchase aircraft and modify them after award was unacceptable because new aircraft did not meet the "special requirements" standard, we disagree because in answering offeror question No. 11, Interior anticipated that an offeror other than the incumbent would modify its aircraft and obtain regulatory approvals after award.

number. The RFP also required specific information for each of those aircraft, such as its total hours of service for the airframe and for each engine, the most recent weight and balance test, and all modifications to the aircraft. Tempus's proposal identified a specific aircraft, but then provided information about a different aircraft. As a result, the conclusion that Tempus's proposal was acceptable under the offer acceptability criteria was unreasonable, so we sustain this ground of protest.

Aircraft Operations Capability Evaluation

Phoenix's protest raises multiple challenges to the evaluation of both firms' proposals under the aircraft operations capability subfactor. In general, Phoenix argues that Interior assessed deficiencies and numerous weaknesses in Phoenix's proposal for failing to provide specific information that the RFP did not require. As explained below, we sustain the protest because Interior applied unstated evaluation criteria in downgrading Phoenix's proposal.

In considering a challenge to a technical evaluation, our Office recognizes the discretion afforded an agency in conducting a technical evaluation, so we will not reevaluate technical proposals; rather, we will review a challenge to an agency's evaluation to determine whether the agency acted reasonably and in accord with the solicitation's evaluation criteria and applicable procurement statutes and regulations. Innovative Test Asset Sols., LLC, B-411687, B-411687.2, Oct. 2, 2015, 2016 CPD ¶ 68 at 5. We will not substitute our judgment for that of the evaluators, but we will sustain a protest where the agency's conclusions are inconsistent with the solicitation's evaluation criteria, are undocumented, or are not reasonably based. Id. An agency may properly apply evaluation considerations that are not expressly identified in the RFP if those considerations are reasonably and logically encompassed within the stated evaluation criteria, so long as there is a clear nexus linking them. Raytheon Co., B-404998, July 25, 2011, 2011 CPD ¶ 232 at 15-16. However, an agency may not give importance to specific factors, subfactors, or criteria beyond that which would reasonably be expected by offerors reviewing the stated evaluation criteria. Risk Analysis & Mitigation Partners, B-409687, B-409687.2, July 15, 2014, 2014 CPD ¶ 214 at 6.

Phoenix argues that the evaluation was improperly based on unstated evaluation criteria because the RFP instructed offerors to discuss general topics such as "overall management, maintenance, and pilot capabilities," "plans for conducting the flight services" and their "capability to provide the required storage and maintenance of Government furnished property," but the record shows that the evaluation focused on whether a proposal made specific commitments to particular specifications, such as whether the proposal contained a property management plan, and whether the offeror responded to each of over 100 specification requirements in RFP Sections A and B. Phoenix's proposal provided narrative responses to the RFP that discussed the subjects identified in the RFP, but did not address each of the specifications in RFP sections A and B. AR Tab 9, Phoenix Proposal, vol. II, at 4-15. Phoenix also described the space and specific equipment

that would be used to provide storage and maintenance of government furnished property, but did not include a property management plan. Id. at 20. Phoenix argues that the deficiency and numerous weaknesses reflect evaluation criteria beyond what Phoenix should reasonably have expected from the stated criteria in the RFP.

Interior responds that the evaluation was consistent with the terms of the RFP, but that Phoenix merely disagrees with the agency's evaluation approach and the evaluators' judgments about the significance of omissions from its proposal. See AR at 8; Supplemental AR at 5.

We disagree. The evaluation of Phoenix's proposal under the aircraft operations capability subfactor was significantly driven by the assessment, on a go/no go basis, of whether the proposal complied with numerous individual specifications found in RFP sections A and B. The evaluation was also significantly affected by whether Phoenix provided a property management plan, rather than an assessment of the performance risk of the firm's approach to performing these aircraft services. We do not think that a reasonable offeror should have understood from the stated evaluation criteria, or from the information requested in the offeror capability form, that specific responses to each of the specifications in RFP Sections A and B and a property management plan were important proposal elements. Accordingly, we sustain the protest because the application of these unstated evaluation criteria significantly lowered the assessment of Phoenix's proposal.¹²

RECOMMENDATION

We recommend that the agency reevaluate proposals consistent with the solicitation's evaluation criteria. To the extent that unstated evaluation criteria may reflect the intended evaluation, we recommend that Interior amend the solicitation to advise offerors of the agency's intended evaluation approach. If the agency amends the solicitation, it should provide the offerors an opportunity to submit revised proposals, evaluate the proposals reasonably and consistent with the solicitation's evaluation criteria, and make a new source selection decision. We also recommend that Phoenix be reimbursed its costs of filing and pursuing the protest. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1). The protester's certified

¹² Phoenix also argues that Interior misapplied RFP § B29 in assigning the second deficiency to Phoenix because the weight and balance certifications for two of its aircraft were not within 24 months of the proposal submission date, while the specification required the certifications to be updated within 24 months of the contract starting date. Since the RFP provided for performance to begin in March 2016, if Interior concludes that the RFP did not accurately state the agency's views that the currency of the weight and balance certifications should be measured from the date of award, the agency should clarify the RFP.

claim for such costs, detailing the time expended and costs incurred, must be submitted directly to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.¹³

Susan A. Poling
General Counsel

¹³ Given our decision and recommendation, we need not address a number of other challenges raised by Phoenix. In implementing our Office's recommendation, Interior may consider whether any further actions should be taken.