



## Decision

**Matter of:** CAMRIS International, Inc.

**File:** B-416561

**Date:** August 14, 2018

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Christine Simpson, Esq., and Anthony E. Marrone, Esq., Department of Health and Human Services, for the agency.  
Young H. Cho, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest challenging an agency's evaluation of proposals and the ensuing selection decision is dismissed where protester's allegations, which are based on speculation, do not establish a valid basis of protest and are legally insufficient.

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### DECISION

CAMRIS International, Inc., of Bethesda, Maryland, challenges the award of a contract to Kelly Services, Inc., of Troy, Michigan, under request for proposals (RFP) No. HHS-NIH-NIDA-SOL-2018-231, issued by the Department of Health and Human Services, National Institutes of Health (NIH), for scientific, technical, and other professional support services. The protester challenges the evaluation of the proposals and selection decision.

We dismiss the protest.

The solicitation, issued on January 9, 2018, under Federal Acquisition Regulation (FAR) parts 15 and 16, contemplated the award of a fixed-priced, indefinite-delivery, indefinite-quantity (IDIQ) contract with reimbursable travel costs, for a three-year period of performance. Solicitation at 1, 58, 59, 62. Award was to be made on a best-value tradeoff basis considering the following factors in descending order of importance: technical, past performance, and price. Id. at 91. The technical factors were comprised of the following factors: technical capability, management approach, and financial capability. Id. at 91-92. The solicitation advised that the technical capability factor was

the most important factor and was assigned the weight of 40 points for evaluation purposes. Id. at 91. The management approach and financial capability factors were of equal importance and were each assigned the weight of 30 points for evaluation purposes. Id. at 92. The solicitation advised that the non-price evaluation factors, when combined, were significantly more important than price. Id.

As relevant here, the solicitation advised that under the technical capability factor, the agency would assess the degree to which the offeror demonstrates the capability to provide services in four task areas.<sup>1</sup> Id. at 91. The solicitation also stated that the offeror was to demonstrate the ability to recruit, retain, and replace a broad array of different types of professionals. Id. Finally, the solicitation advised that the agency would also assess the benefits package provided to employees, subcontractors, and/or consultants. Id.

For the past performance factor, the agency advised that past performance would be rated as excellent (+2), good (+1), none (0), marginal (-1), or poor (-2). Id. at 93-94. As relevant here, the excellent rating was defined as “[b]ased on the offeror’s performance record, no doubt exists that the offeror will successfully perform the required effort. Sources of information are consistently firm in stating that the offeror’s performance was superior and that they would unhesitatingly do business with the offeror again.” Id. at 93.

The agency received four proposals, including those from CAMRIS and Kelly Services. Protest, exh. 3, Award Notice. On July 2, 2018, CAMRIS was notified that the agency had made award to Kelly Services. Id. The same day CAMRIS requested a debriefing and, on July 3, was provided a written debriefing. Protest, exh. 4a, Debriefing Transmittal; exh. 4b, Debriefing Letter; exh. 5, Debriefing Request and Questions. In its debriefing CAMRIS was informed that Kelly Services received the highest overall ranking, a +1 past performance rating, and had a total evaluated price of \$653,597,141. Protest, exh. 4b, Debriefing Letter. With regard to its own proposal, CAMRIS was informed that it was ranked second in its overall technical ranking, received a +1 past performance rating, and had a total evaluated price of \$583,459,669. Id. CAMRIS was also advised that Kelly Services’ proposal included several superior approaches that justified its price premium over CAMRIS’s lower technical rated proposal. Id.

CAMRIS subsequently filed this protest with our Office on July 9, arguing that (1) the agency abandoned the solicitation’s stated point-based evaluation scheme; (2) failed to identify key discriminators between its proposal and the awardee’s proposal under the technical capability element; (3) failed to justify the awardee’s substantial price

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<sup>1</sup> These task areas encompass providing clinic research support and other professional support to research efforts that involve human subjects, involve non-human subjects, and do not involve living subjects; and architectural and engineering, maintenance, and facility advice, assistance, and support to NIH. RFP, attach. 3, Statement of Work (SOW) at 2-4.

premium; (4) failed to determine that the awardee's price was unreasonably high; and (5) conducted a flawed past performance evaluation. See generally Protest.

Prior to the due date for the agency report, the agency requested that our Office dismiss CAMRIS International's protest as legally insufficient. Based on our review of the protest, we agree.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556. Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. Pacific Photocopy & Research Servs., B-278698, B-278698.3, Mar. 4, 1998, 98-1 CPD ¶ 69 at 4. To achieve this end, our Bid Protest Regulations require that a protest include a sufficiently detailed statement of the grounds supporting the protest allegations. 4 C.F.R. §§ 21.1(c)(4), 21.1(f), and 21.5(f). That is, a protest must include sufficient factual bases to establish a reasonable potential that the protester's allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. Ahtna Facility Servs., Inc., B-404913, B-404913.2, June 30, 2011, 2011 CPD ¶ 134 at 11. Unsupported assertions that are mere speculation on the part of the protester do not provide an adequate basis for protest. Science Applications Int'l Corp., B-265607, Sept. 1, 1995, 95-2 CPD ¶ 99 at 2.

Here, the protester bases its challenges to the agency's evaluation of its own proposal and the awardee's proposal on its speculation with regard to the contents of the awardee's proposal, having no actual knowledge as to its contents. In this regard, the protester raises three arguments.

First, the protester contends that the agency's technical evaluation was flawed because the agency failed to recognize the superiority of CAMRIS's proposal over the awardee's proposal based on the benefits package that CAMRIS offered. Protest at 11. In this regard, the protester claims that it specifically proposed to provide additional employee benefits that the awardee did not offer. Id. The protester further argues that its proposal would have been more highly rated, had the agency not overlooked these aspects of CAMRIS's proposal, would have received more points than the awardee, and as the lower priced offeror, would have been awarded the contract. Id.

These arguments, however, are not based on the protester's actual knowledge of the contents of Kelly Services' proposal. Rather, as acknowledged by the protester, these arguments are based on CAMRIS's comparison of its proposed benefits package and information that the protester obtained about the benefits package that Kelly Services offered to its employees on its incumbent contract. Id. at 7, 11.

The protester next argues that the agency failed to determine that the awardee's price was unreasonably high. Id. at 13-14. In support of its argument, the protester argues that the fact that the awardee's price was 12 percent higher than its own price, which the protester characterizes as a "significant disparity," should have indicated to the agency that the awardee's price was unreasonably high. Id. at 13. The protester

further speculates that the awardee's allegedly exceedingly high total evaluated price likely is the result of the awardee seeking above-market profits, or paying for labor at rates above market and could not have resulted from the awardee having proposed an enhanced technical solution or possessing superior corporate expertise. Id. at 14.

Finally, the protester argues that the agency's past performance evaluation was flawed because the agency failed to recognize that CAMRIS's past performance information was superior to the awardee's past performance. Id. at 14. In support of its argument, the protester claims that while the agency assessed both offerors a +1 (i.e., good) rating, its own rating should have been a +2 (i.e., excellent), based on verbal feedback as well as a continuing contractual relationship with a past performance reference that led CAMRIS to expect that its past performance references would have indicated that they would definitely, certainly, or unhesitatingly do business with CAMRIS again. Id. By contrast, the protester speculates that because the awardee is the incumbent contractor and was not assessed a +2 (i.e., excellent) rating, this means that the contracting or program officials on the incumbent contract did not indicate that they would unhesitatingly do business with the awardee again on the most relevant past performance reference contract. Id. at 15. As a result, the protester concludes that the agency should have recognized that CAMRIS has superior past performance information. Id.

All three protest grounds are based on nothing more than the protester's speculation and supposition. Accordingly, we dismiss the protester's arguments because the protester's speculation is insufficient to state a valid basis for protest. 4 C.F.R. § 21.5(f).

We also agree with the agency that the protester's remaining two arguments are legally insufficient. In this regard, the protester first contends that the solicitation provided for an objective point-based evaluation, which the agency failed to utilize and instead relied on subjective evaluation judgments. Protest at 10. Specifically, the protester contends that the solicitation required the agency to use a 100-point evaluation scheme, which would have created a ranking based on total points and would have been used in the tradeoff decision between the offerors by a comparison of points per evaluation factor. Id.

It is well established that ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision making in the procurement process. See Environmental Restoration, LLC, B-406917, Sept. 28, 2012, 2012 CPD ¶ 266 at 5. Source selection officials are required to consider the underlying bases for ratings, including the advantages and disadvantages associated with the specific content of competing proposals. General Dynamics, American Overseas Marine, B-401874.14, B-401874.15, Nov. 1, 2011, 2012 CPD ¶ 85 at 10. In this regard, the evaluation of proposals and consideration of their relative merit should be based upon a qualitative assessment of proposals consistent with the solicitation's evaluation scheme. See ITT Corp., Sys. Div., B-310102.6 et al., Dec. 4, 2009, 2010 CPD ¶ 12 at 10; Kellogg Brown & Root Servs., Inc., B-298694.7, June 22, 2007, 2007 CPD ¶ 124 at 5. Moreover, while the solicitation indicated that a technical review committee would "evaluate each proposal in

strict conformity with the evaluation factors of the RFP, utilizing point scores and written critiques”, we fail to see how this language required the agency to evaluate the proposals using a rigid point-based system, to rank offerors based on total points, or to use these point scores to make its tradeoff decision.

Finally, the protester argues that the agency failed to make a rational best-value tradeoff because “the [a]gency has provided no evidence to CAMRIS” that it properly considered CAMRIS’s lower price, and that “the [a]gency appears to have failed to document the specific advantages it found in the [a]wardee’s proposal.” Protest at 13.

The protester’s assertion of improper agency action alone, without any supporting explanation or documentation, does not satisfy these requirements. To the extent the protester contends that its speculative arguments are justified by an inadequate debriefing, we disagree. Whether an agency provides a debriefing and the adequacy of a debriefing are not issues that our Office will consider, because the scheduling and conduct of a debriefing is a procedural matter that does not involve the validity of an award. The Ideal Solution, LLC, B-298300, July 10, 2006, 2006 CPD ¶ 101 at 3 n.2; see Symplicity Corp., B-297060, Nov. 8, 2005, 2005 CPD ¶ 203 at 4 n.4; Canadian Commercial Corp., B-222515, July 16, 1986, 86-2 CPD ¶ 73 at 5. Further, our Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) and (f), require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient.

The protest is dismissed.

Thomas H. Armstrong  
General Counsel