



## Decision

**Matter of:** Joint Technology Solutions, Inc.

**File:** B-416600.2

**Date:** October 30, 2018

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Department of Homeland Security, for the agency.  
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participated in the preparation of the decision.

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### DIGEST

1. Protest challenging exclusion from a two-phased competition because it lacked sufficient details is dismissed as untimely where protester argues after its exclusion from phase I that the solicitation failed to specify the level of detail to be provided in its price quotation.
2. Protest challenging agency's evaluation of the protester's price quotation is denied where the evaluation was reasonable and consistent with the solicitation.

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### DECISION

Joint Technology Solutions, Inc. (Joint Technology), of Manassas, Virginia, protests the exclusion of its quotation from phase II of the competition conducted under request for quotations (RFQ) No. 70T05018Q9NMED010, issued by the Department of Homeland Security, Transportation Security Administration (TSA), to establish a blanket purchase agreement (BPA) for program management support services. The protester argues that the agency's exclusion of its quotation was unreasonable because the solicitation did not specify the exact level of detail required in its price quotation and that the agency's evaluation was unreasonable.

We dismiss the protest in part and deny the protest in part.

### BACKGROUND

The RFQ, set aside for historically underutilized business zone small businesses, was issued on October 25, 2017, using the procedures set forth in Federal Acquisition

Regulation (FAR) subpart 8.4. RFQ<sup>1</sup> at 1, 252.<sup>2</sup> The solicitation contemplated the establishment of a single BPA with a 1-year base period and four 1-year option periods. Id.

The solicitation advised that the agency would evaluate quotations in two phases; only phase I is relevant to the issues in this protest. Id. at 302-303. In this regard, the solicitation advised that during phase I vendors were to submit the following three separate quotation volumes: technical approach; experience; and price and labor matrix. Id. at 301. The solicitation instructions with regard to the price factor provided the following:

PRICE AND LABOR MATRIX: Contractors shall provide the completed [l]abor [c]ategory [c]ross [r]eference [s]preadsheet with their quote . . . . The contractor shall ensure that a labor category description is included with their submission in sufficient detail for evaluation (does not count toward total page limitation).

Id. at 301.

The price and labor matrix/labor category cross reference spreadsheet (labor matrix spreadsheet), in one column titled “SOW [statement of work] job title and description,” listed 14 labor categories and their respective education, experience, and/or certification requirements, which were identical to those in the SOW. See id. at 42-43; see also id. at 249-250. The next column was titled “contractor equivalent job title and description,” and was blank. Id. at 42-43. The labor matrix spreadsheet contained no instructions as to what information the vendors were to provide. Id.

After determining the acceptability of the vendors’ quotations under the evaluation factors, the agency was to eliminate from further consideration any vendors that were not deemed to be the most competitive. Id. at 303. With regard to the price factor, the solicitation did not address how price would be evaluated, other than identifying the factor as “Price (BPA Labor Rates and Labor Categories),” and stating that under phase I, the agency would evaluate “the pricing matrix for categories proposed.” Id.

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<sup>1</sup> The RFQ was issued to vendors holding contracts under the General Services Administration’s (GSA) Federal Supply Schedule (FSS), Professional Services Schedule, Mission Oriented Business Integrated Services, Special Item Number (SIN) 874-7, Integrated Business Program Support Services. RFQ at 241. The solicitation was amended four times. All references to the solicitation are to a conformed solicitation incorporating changes through amendment 4 and provided by the agency.

<sup>2</sup> The agency used a Bates numbering system in preparing the agency report. This decision uses the Bates numbers assigned by the agency for its citations.

Joint Technology submitted a timely quotation, which was evaluated by the agency as follows:<sup>3</sup>

Technical Approach	Experience	Price and Labor Matrix		
		Price (at or below GSA rate)	Labor Categories (on required SIN)	Labor Categories (equivalent)
Acceptable	Good	Yes	Yes	No

Agency Report (AR), Contracting Officer’s Statement (COS) at 4, 5; AR, Tab 28, Phase II Selection Determination at 399; AR, Tab 31, Additional Evaluation Information at 415-416. As relevant here, the agency assessed several deficiencies in Joint Technology’s quotation under the price factor for failure to provide sufficient information regarding the levels of experience, education, and/or certifications of its proposed labor categories. See AR, COS at 5-12; AR, Tab 27, Technical Evaluation at 389-390; AR, Tab 31, Additional Evaluation Information at 416. For example, the agency found that for labor categories in the SOW that required specific certifications, Joint Technology’s labor matrix spreadsheet did not include these certifications for those labor categories. See AR, Tab 27, Technical Evaluation at 389; AR, Tab 31, Additional Evaluation Information at 416. As a result, the agency found that Joint Technology’s quotation was not among the most competitive and therefore would not proceed to phase II. AR, COS at 12; AR, Tab 28, Phase II Selection Determination at 407; AR, Tab 29, Preaward Notice of Exclusion from Phase II at 411; AR, Tab 31, Additional Evaluation Information at 416.

On July 12, 2018, the agency notified Joint Technology of its exclusion, explaining that this was based on Joint Technology’s failure to provide sufficient information to allow the agency to ascertain whether the company’s proposed labor categories met the requirements of the solicitation. AR, Tab 29, Preaward Notice of Exclusion from Phase II at 411. This protest followed.

**DISCUSSION**

Joint Technology primarily argues that the solicitation failed to specify the level of detail that the vendors were required to provide in their labor matrix spreadsheets.<sup>4</sup> Protest

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<sup>3</sup> Because no protective order was issued during the protest, our discussion of some aspects of the agency’s evaluation is necessarily general to avoid reference to proprietary or source-selection information. Nonetheless, our conclusions are based on our review of the entire record.

<sup>4</sup> In filing and pursuing its protest, the protester has made arguments that are in addition to, or variations of, those discussed below. We have considered all of the protesters’ assertions and find no basis to sustain its protest.

at 4 (“[w]ithout definition of what sufficient detail was required by TSA, the [vendor] would have no guidance as to the exact level of details required”); Protester’s Comments at 3. The protester further argues that notwithstanding the lack of details in the solicitation, the agency’s evaluation was unreasonable because in addition to providing details demonstrating that its proposed labor categories met or exceeded the solicitation’s requirements, its quotation provided a statement committing to provide personnel that would meet or exceed the solicitation’s requirements. Protest at 4-5; Protester’s Comments at 4.

In response, the agency argues that the protester alleges improprieties in the solicitation that should have been raised prior to the closing time for receipt of quotations and as a result, its protest is untimely and should be dismissed pursuant to 4 C.F.R. § 21.2(a)(1). AR, Memorandum of Law at 2. The agency also asserts that to the extent Joint Technology provided details in its quotation with regard to its proposed labor categories, those details did not demonstrate that its proposed labor categories would meet or exceed the solicitation’s requirements. Id. at 3-5. The agency further contends that Joint Technology’s blanket statement of compliance also did not demonstrate how its proposed labor categories would meet or exceed the solicitation’s requirements. Id. at 6.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Verizon Wireless, B-406854, B-406854.2, Sept. 17, 2012, 2012 CPD ¶ 260 at 4. Under these rules, a protest based on alleged improprieties in a solicitation must be filed prior to bid opening or the time established for receipt of proposals or in this case quotations. 4 C.F.R. § 21.2(a)(1).

Here, as discussed above, while the solicitation instructed vendors to provide “a labor category description . . . in sufficient detail for evaluation,” no additional information was provided as to the specific level of detail to be provided by the vendors. See id. at 301; see also id. at 42-43. The solicitation’s failure to provide any definitions or guidance for what the agency would consider to be “sufficient detail” was apparent prior to the time for the submission of quotations. It is well-settled that a party who has the opportunity to object to allegedly improper or patently ambiguous terms in a solicitation, but fails to do so prior to the time set for receipt of quotations, waives its ability to raise the same objection later. See, e.g., Baldt Inc., B-402596.3, June 10, 2010, 2010 CPD ¶ 139 at 2. We have noted that this rule prevents an offeror from taking advantage of the government, as well as other offerors, by waiting silently during the procurement process, only to spring forward after award with an alleged defect in an effort to restart the procurement. See, e.g., Del-Jen Educ. & Training Grp./Flour Fed. Sols. LLC, B-406897.3, May 28, 2014, 2014 CPD ¶ 166 at 7 n.9. Because Joint Technology did not challenge the solicitation’s failure to provide any definitions or guidance for what the agency would consider as “sufficient detail” prior to the solicitation’s closing date, it is untimely. Accordingly, this protest ground is dismissed.

Further, where, as here, an agency issues an RFQ to FSS vendors under FAR subpart 8.4 and conducts a competition for the issuance of an order or establishment of a BPA, we will review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. AmVet Techs., LLC, B-415150.2, B-415150.3, June 5, 2018, 2018 CPD ¶ 202 at 3; HP Enter. Servs., LLC, B-411205, B-411205.2, June 16, 2015, 2015 CPD ¶ 202 at 5. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. Tesla Labs., Inc., B-414428, June 7, 2017, 2017 CPD ¶ 182 at 4; Electrosoft Servs., Inc., B-413661, B-413661.2, Dec. 8, 2016, 2017 CPD ¶ 7 at 5.

Here, the SOW specifically identified the required education level; type and minimum years of experience; and any certification requirements for each labor category. See RFQ at 249-250. For example, the SOW required the following for the general program/project management specialist labor category:

[S]hall have 7+ demonstrated knowledge and years of experience in general program/project management. Specialists shall be certified in Program/Project Management (e.g., Project Management Institute (PMI) Project Management Professional (PMP), and/or Federal Acquisition Certification for Program and Project Managers (FAC- P/PM) Level II and above). BA/BS required.

Id. However, the description of the equivalent labor category proposed by Joint Technology in its labor matrix spreadsheet indicated that the educational and experience requirements for this labor category were "[b]achelor's degree or four (4) years of directly relevant experience may be substituted. [Eight] years experience in managing multiple delivery orders or in managing multiple requirements on contracts." AR, Tab 22, Joint Technology Price and Labor Matrix at 351. Similarly, nothing in Joint Technology's labor matrix spreadsheet indicated that its equivalent labor category possessed any certifications. Id. A vendor is responsible for submitting a well-written quotation, with adequately detailed information, that clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. FEI Sys., B 414852.2, Nov. 17, 2017, 2017 CPD ¶ 349 at 6. A vendor that fails to do so runs the risk that its quotation will be evaluated unfavorably. See govSolutions, Inc., B 413166.3, Sept. 2, 2016, 2016 CPD ¶ 252 at 3-4; Recogniti, LLP, B-410658, Jan. 21, 2015, 2015 CPD ¶ 49 at 6. On this record, we have no basis to object to the agency's evaluation.

Finally, as discussed above, while the solicitation was not clear as to what level of detail vendors were to provide in their labor matrix spreadsheet, the solicitation instructed the vendors to provide "a labor category description . . . in sufficient detail for evaluation." RFQ at 301. As such, we do not find objectionable the agency's determination that Joint Technology's statement that it would provide personnel that would meet or exceed the SOW requirements inadequate. In this regard, our Office has consistently noted that blanket statements of compliance do not establish technical acceptability where the terms of the solicitation require a level of detail beyond simple acknowledgement of the

solicitation's requirements or certification that an offeror will meet them. See, e.g., Point Blank Enters.--Recon., B-411897.5, Mar. 22, 2016, 2016 CPD ¶ 94 at 9 (citations omitted). Accordingly, Joint Technology's challenges to the agency's evaluation are denied.

The protest is dismissed in part and denied in part.<sup>5</sup>

Thomas H. Armstrong  
General Counsel

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<sup>5</sup> Joint Technology filed its protest with our Office challenging its exclusion from phase II on July 23. On August 3, the agency provided Joint Technology with additional details with regard to the evaluation of its quotation under each factor including the adjectival rating assigned to each factor as well as the details of any weaknesses, significant weaknesses, risks, or deficiencies assessed by the agency. AR, Tab 31, Additional Evaluation Information at 415-416. On August 30, in its comments responding to the agency report, Joint Technology for the first time raised arguments challenging the evaluation of its quotation under the technical approach and experience factors. Protester's Comments at 6-8. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) require protests to be filed no later than within 10 days of when a protester knows, or should know of a basis for protest. Joint Technology's arguments challenging the evaluation of its quotation under the technical approach and experience factors were raised more than 10 days after the information forming the basis for its arguments was known to Joint Technology. We therefore dismiss those arguments as untimely.