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# Decision

**Matter of:** Trinity Global Consulting, LLC

**File:** B-417823

**Date:** October 7, 2019

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Chalfrantz Perry, Esq., Perry & Associates, for the protester.  
Felix Mason, Esq., Stephen Hernandez, Esq., and Scott N. Flesch, Esq., Department of the Army, for the agency.  
Kasia Dourney, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest alleging that an amendment to the solicitation disclosed protester's proprietary information is dismissed where the protester fails to establish a sufficient factual or legal basis for protest.

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## DECISION

Trinity Global Consulting, LLC (Trinity), a service-disabled veteran-owned small business (SDVOSB) concern located in McLean, Virginia, protests the issuance of an amendment to request for proposals (RFP) No. W91247-19-R-9006, issued by the Department of the Army for Army Reserve Command military identification (ID) card/common access card (CAC) office support services. Trinity contends that the amendment improperly disclosed the protester's proprietary information that was included in its proposal.

We dismiss the protest.

On March 29, 2019, the agency issued the RFP as a set-aside for SDVOSBs, anticipating award to the offeror submitting the lowest-priced, technically acceptable proposal. Request for Dismissal, exh. 1, RFP at 1, 42. The solicitation sought proposals for the Army Reserve Command military identification card/CAC office support services.<sup>1</sup> COS ¶ 1.

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<sup>1</sup> The procurement at issue is the follow-on acquisition to the current Army Reserve Command requirement for military ID card/CAC office support services contract no.

(continued...)

As relevant here, the solicitation did not specify particular Service Contract Act (SCA) labor categories that offerors were required to use in their proposals but, rather, advised that offerors were to propose labor categories based on their specific proposed staffing solutions.<sup>2</sup> COS ¶¶ 3, 7. Prior to the initial closing date, the solicitation contained the following language identifying the equivalent federal employee labor category the agency determined could perform certain requirements:

This Statement is for Information Only. It is not a Wage Determination:

Job Series: 0326

Series Title: Office Automation Clerical and Assistance

Pay Grade: GS 2, Step 2

2019 Monetary Wage/Hourly Basic Rate: \$13.51 (Locality Pay Area of Raleigh-Durham-Chapel Hill, NC)

RFP amend. 2 at 14.

On May 24, 2019, the protester submitted its proposal. Request for Dismissal, exh. 3, Trinity's Technical Proposal, at 1. In its proposed staffing plan, Trinity recommended using the Personnel Assistant II labor category for the duties of Verifying Officials<sup>3</sup> (VO), one of the managerial positions for the requirement. Id. at 14-15.

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(...continued)

W91247-19-R-9006 at Fort Bragg, North Carolina. Contracting Officer's Statement (COS) ¶ 1-2.

<sup>2</sup> Specifically, amendment 2 to the solicitation, issued on May 10, 2019, included the following response to a question regarding the appropriate SCA labor categories for the requirement:

We cannot provide the SCA rate being used on the current contract. The SCA rate determination is contingent on the offerors' proposed staffing solution. Please see revised FAR [Federal Acquisition Regulation] Clause 52.222-42 under 52.212-5 which provides Statement of Equivalent Rates for Federal Hires.

COS ¶ 3.

<sup>3</sup> According to the solicitation, the Verifying Officials "ensure uniformed service members, their family members, and other eligible beneficiaries receive the DOD [Department of Defense] benefits to which they are entitled"; their specific tasks include verification of identity of card recipients and issuance of DOD ID cards. Protest, exh. 8, at 42-43.

On or about June 12, 2019, an Army contract specialist working on this acquisition received a call from an investigator with the Department of Labor (DOL), Wage and Hour Division, inquiring about the labor categories used on the current ID/CAC contract at Fort Bragg. COS ¶ 6. According to the DOL investigator, her office was in the process of determining whether the federal employee labor category, Personnel Assistant Level II, instead of Word Processor I, was the proper labor category for the duties of VOs. Id.

After additional conversations with the DOL investigator and examining the scope of VO duties, the agency concluded that the labor category was misclassified, and identified Personnel Assistant Level II as the correct labor category for VO tasks.<sup>4</sup> Accordingly, on August 2, 2019, the agency issued RFP amendment 4, inserting the following paragraph below the solicitation's inclusion by reference of FAR clause 52.222-42:

Job Series: 0326  
Series Title: Office Automation Clerical and Assistance  
Pay Grade: Ranges between a GS 4, Step 7 and GS 5, Step 4  
2019 Monetary Wage/Hourly Basic Rate: Ranges between \$18.10 and \$18.56  
(Locality Pay Area of Raleigh-Durham-Chapel Hill, NC. Rates vary according to locality pay area).

RFP amend. 4 at 12 (emphasis removed). Amendment 4 also added the following statement below the solicitation's inclusion by reference of FAR clause 52.222-41:

According to the Department of Labor (DOL)[,] the appropriate labor category to perform Verifying Officials (VO) duties under DEERS [Defense Enrollment Eligibility Reporting System] CAC ID Services is Personnel Assistant II rather than General Clerk II.

Id. at 11.

On August 6, Trinity filed this protest with our Office.

The protester alleges that RFP amendment 4, issued "70 days after" the May 24, 2019 closing date for submission of proposals, was based on the "staffing and pricing solution" Trinity included in its proposal, and that the agency improperly "release[d] . . . [Trinity's] proprietary information" in amendment 4, arguing that its staffing and pricing information "was unique to our team as compared to the other vendors identified within the competitive range." Protest at 1-2, 5. In its later submission to our Office, the

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<sup>4</sup> Following that determination, on May 22, 2018, the Army issued a contract modification to the current ID/CAC contract at Fort Bragg, to process an equitable adjustment resulting from reclassification of SCA labor category for VO duties from General Clerks to Personnel Assistants II. COS ¶ 9.

protester also “clarifies” that its “claims . . . involve incompetence and . . . bad faith,” that result in harm to the protester and the “entire vendor community.” Protester’s Response to Request for Dismissal at 2.

The agency responds that amendment 4 was based on information it received from DOL, not from the protester’s proposal. Request for Dismissal at 5. The agency further argues that Trinity’s protest fails to present evidence to reasonably conclude that the agency “copied information from its proposal,” noting that Trinity does not explain why it “believes that amendment 4 was based on its proposal.” Id. at 8. Finally, the Army maintains that Trinity fails to describe how the agency’s alleged actions violate any procurement laws or regulations.<sup>5</sup> Id.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984. See 31 U.S.C. §§ 3551-3557. Our role in resolving bid protests is to review whether a procurement action constitutes a violation of a procurement statute or regulation. 31 U.S.C. § 3552. To achieve this end, 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. These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. See, e.g., Midwest Tube Fabricators, Inc., B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3.

Here, Trinity has failed to allege a cognizable basis of protest. Although Trinity claims that the agency “expose[d] . . . an important data-element of [its] staffing and pricing solution,” Protest at 2, the protester has adduced no convincing evidence that the Army relied on the information found in Trinity’s proposal when it issued amendment 4 to the RFP. See CAMRIS Int’l, Inc., B-416561, Aug. 14, 2018, 2018 CPD ¶ 285 at 5 (“The protester’s assertion of improper agency action alone, without any supporting explanation or documentation, does not satisfy [our bid protest requirement that protesters state legally sufficient grounds of protest].”). As such, the protester’s allegations are legally insufficient. Our Office will not find improper agency action based on conjecture or inference. See Raytheon Blackbird Techs., Inc., B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 3-4 (protest allegation was speculative because it was not supported by any evidence); see also Mark Dunning Indus., Inc.,

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<sup>5</sup> While the Army contends that Trinity fails to identify any violation of procurement law or regulation, the agency suggests that the protester might be alleging violations of the Procurement Integrity Act (PIA). Request for Dismissal at 6-7. The protester responds that the agency’s reliance on the PIA is “specious and misstates the allegations contained in protester’s petition.” Protester’s Response to Request to Dismiss at 1. Hence, we will not consider any potential PIA implications in this decision.

B-413321.2, B-413321.3, Mar. 2, 2017, 2017 CPD ¶ 84 at 2 (a protest allegation which is speculative fails to state a valid basis of protest).

To the extent the protester complains that amendment 4 was issued after the closing time for receipt of proposals, an agency is not prohibited from amending a solicitation after the closing date, or extending the closing date, in the interest of obtaining competition. See FAR § 15.206; see also Ivey Mech. Co., B-272764, Aug. 23, 1996, 96-2 CPD ¶ 83 at 1-2; Geo-Seis Helicopters, Inc., B-299175, B-299175.2, March 5, 2007, 2007 CPD ¶ 135 at 5. Here, the record shows that the agency's motivation in extending the deadline was to allow offerors to revise and resubmit their price proposals, and thus, enhance competition. COS ¶ 10. The protester, however, is essentially arguing for restricting competition, when it asserts that the agency should not have provided guidance to other offerors and amended the solicitation, despite clear guidance from DOL. As such, the protester's contentions do not provide a basis for sustaining the protest.

Trinity's other protest allegations concentrate on the contracting officer and her staff being "unfamiliar with the appropriate labor category." Protester's Response to Request for Dismissal at 10. The protester asserts "incompetence and . . . bad faith" by the contracting office that has harmed the "protester and entire vendor community." Id. at 2. As discussed below, we also dismiss this protest ground.

Government officials are presumed to act in good faith and a protester's claim that contracting officials were motivated by bias or bad faith must be supported by convincing proof. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7-8. We will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Computers Universal, Inc., B-410790.2, Feb. 25, 2015, 2015 CPD ¶ 83 at 3-4.

Other than Trinity's generalized claims, the protest does not include sufficient information to establish that the solicitation's initial incorrect identification of the labor category to be used for the requirement was motivated by bias towards any offeror, including the protester; similarly, there is no support for an allegation that the amendment correcting the labor category, per clear guidance of the DOL, was motivated by bias or bad faith.

In fact, the sum of the protester's assertions--that the agency's contracting staff was incompetent, and used Trinity's proprietary information when it amended the solicitation on August 2, 2019--fail to reasonably establish a violation of procurement statutes or regulations by the Army. Finally, Trinity was not prejudiced by the agency's action because, after the agency's determination that it misidentified the labor category for VO

duties, Trinity had sufficient time to resubmit its proposal by the new closing date. Institute for Advanced Safety Studies--Recon., B-221330.2, July 25, 1986, 86-2 CPD ¶ 110 at 2-3.

In sum, Trinity has not included sufficient factual or legal bases for protest. Accordingly, we decline to further consider the matter. See Bid Protest Regulations, 4 C.F.R § 21.5(f).

The protest is dismissed.

Thomas H. Armstrong  
General Counsel