



# Decision

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**Matter of:** RIVA Solutions, Inc.

**File:** B-417858.2; B-417858.10

**Date:** October 29, 2020

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## DIGEST

Protest challenging an agency's evaluation and rejection of quotation as technically unacceptable is denied where the record reflects that the evaluation was reasonable and consistent with the terms of the solicitation.

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## DECISION

RIVA Solutions, Inc., a small business located in McLean, Virginia, protests the evaluation of its quotation under request for quotations (RFQ) No. 1354981, issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), to establish multiple blanket purchase agreements (BPAs), for information technology support services. The protester challenges the evaluation of its quotation, arguing that the agency applied an unstated evaluation criterion in finding the quotation technically unacceptable.

We deny the protest.

## BACKGROUND

On May 30, 2019, NOAA issued the RFQ under Federal Acquisition Regulation (FAR) subpart 8.4, to vendors holding General Services Administration (GSA) Federal Supply Schedule (FSS) 70 Information Technology contracts. The RFQ was issued as a small business set-aside. The solicitation sought to establish multiple BPAs for a 5-year base period and one 5-year option. Agency Report (AR), Tab 9, RFQ at 3, 12. The

estimated volume of purchases under the BPAs will be approximately \$2.1 billion over ten (10) years. RFQ at 19.

The RFQ provided that BPAs would be established with the highest technically rated vendors with fair and reasonable prices. RFQ at 37. The agency anticipated the establishment of 10 to 25 BPAs, though it reserved the right to establish more or fewer BPAs, at its discretion. *Id.* The solicitation identified the following three non-price evaluation factors, listed in descending order of importance: technical capability, management approach, and past performance. *Id.* at 37-38. The solicitation provided that the non-price factors, when combined, were significantly more important than price, and that the three non-price factors would “play a dominant role in the basis for award.” *Id.* The RFQ also explained, however, that a vendor “whose proposed prices are determined not to be fair and reasonable will not be awarded a BPA” regardless of the evaluation of the non-price factors of the quotation. *Id.* at 37.

As relevant to this protest, for the technical capability factor, the solicitation provided that the vendor “shall provide its corporate experience using the format in [a]ttachment 5,” which consisted of a technical factor matrix organized by the core management components and services areas required by the RFQ’s performance work statement (PWS). *Id.* at 35, 38-39. The solicitation required that vendors use attachment 5 to “summarize the size, scope, and complexity of work performed” by the vendor as it relates to the “six core management components and its forty respective services areas in accordance with the PWS[.]” *Id.* at 35. The RFQ provided that the agency would evaluate the extent to which the vendor “demonstrates the understanding and capability to meet the [g]overnment’s requirements in accordance with” the technical matrix. *Id.* at 38-39.

The agency received quotations from 105 vendors, including RIVA, by the October 1, 2019 submission deadline. Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 7. Eighty-five of these quotations, including RIVA’s, passed an initial compliance and eligibility review and were further evaluated by the agency. *Id.* The agency evaluated all 85 quotations and found all proposed prices, including RIVA’s, fair and reasonable. AR, Tab 41, Award Decision Document, at 7, 8-11. The agency evaluated RIVA’s quotation under the three non-price factors as follows:<sup>1</sup>

	<b>Technical Capability</b>	<b>Management Approach</b>	<b>Past Performance</b>
<b>RIVA Solutions</b>	Unacceptable	Acceptable	Acceptable

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<sup>1</sup> Quotations were evaluated under the technical capability and management approach factors as outstanding, good, acceptable, marginal, and unacceptable. *Id.* at 5. Under the past performance factor, quotations were evaluated as outstanding, acceptable, marginal, unacceptable, and neutral. *Id.* at 6-7. An unacceptable rating was defined as a quotation that “fails to meet requirements” and contains “multiple significant weaknesses and/or deficiencies.” *Id.* at 5. A rating of unacceptable under any factor would render a quotation ineligible for award. *Id.*

*Id.* at 8.

In evaluating RIVA's quotation under the technical capability factor, the agency assessed eight significant weaknesses and 16 weaknesses.<sup>2</sup> AR, Tab 33, Tech. Report at 1. The evaluators concluded that, "as indicated by [the] multiple significant weaknesses and weaknesses," RIVA's quotation "fail[ed] to meet the technical requirements of the solicitation." *Id.* at 1. The evaluators therefore rated RIVA's quotation "Unacceptable" for the technical capability factor. *Id.*

The source selection official (SSO) concurred with the evaluation and adjectival ratings assigned by the technical evaluation team. AR, Tab 41, Award Decision Document, at 75-76. The SSO noted that RIVA's quote "did meet some of the requirements listed under the PWS but failed to address areas of the PWS resulting in multiple significant weaknesses." *Id.* at 75. The SSO found that "[o]verall the quote reveals a poor understanding of the overall requirements listed under the BPA," and therefore, the "risk of unsuccessful contract performance is very high as the quote contains solutions that are not feasible or practical." *Id.*

In making his award determination, which did not include a BPA for RIVA, the SSO explained that 57 of the 85 quotations evaluated received a marginal or unacceptable rating under at least one of the three non-price factors. *Id.* at 107. The SSO further explained that, "[a]lthough these quotes' prices are found to be fair and reasonable," these quotations "all contain multiple significant weaknesses and/or deficiencies that fail to demonstrate the [vendors]' understanding, capability and expertise to meet the Government's requirements." *Id.* The SSO found that "these quotes reveal a poor understanding of the overall requirements listed under the BPA, which significantly increase[s] the risk of poor performance." *Id.* The SSO concluded that "[d]ue to failure to demonstrate understanding, capability and expertise, and due to high performance risk," these "57 quotes are not evaluated as Highest Technically Rated." *Id.*

The SSO concluded that the remaining 28 quotations, which all received "Acceptable to Outstanding ratings under [the] three non-price factors," provided the "Highest Technically Rated quotes with [a] fair and reasonable price." *Id.* He noted that all 28 quotations "present a combination of strengths that are highly beneficial to the

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<sup>2</sup> Specifically, the agency assigned significant weaknesses for the following eight PWS service areas: 3.1.4.10 - Service Delivery Center, Data Center, and Equipment Room IT Management; 3.1.4.2 - Enterprise Systems Maintenance and Repair; 3.1.4.3 - Field Service Support; 3.1.4.9 - Enterprise Infrastructure Maintenance and Repair; 3.1.5.5 - Wireless and Mobile Device Support; 3.1.5.6 - Voice Installation, Operations, and Maintenance; 3.1.5.7 - Video and Video Teleconferencing Installation, Operations, and Maintenance; and 3.1.5.8 - Knowledge Wall and Video Display Integration, Operations, and Maintenance. *Id.* at 4-7. The agency assigned an overall weakness for technical capability because RIVA's quotation seemed "weak on general enterprise IT services involving server and network administration as well as workstations," similar in scope, size and complexity of NOAA systems. *Id.* at 1.

Government and outweigh any weaknesses found,” that “[t]he risk of unsuccessful performance is low,” and that the government has “very high confidence in these Quoters to successfully perform under this BPA.” *Id.* Accordingly, the SSO concluded that these 28 quotations represented the best value to the government and decided to establish BPAs with those vendors. *Id.*

On July 13, 2020, the agency notified RIVA that its quotation was not among the highest technically rated and had not been selected for a BPA. AR, Tab 42, Unsuccessful Vendor Letter, at 1. RIVA then timely filed this protest with our Office.

## DISCUSSION

RIVA challenges the evaluation of its quotation as unacceptable under the technical capability factor. The protester contests each of the significant weaknesses assigned to its quotation under this factor, arguing that the agency’s evaluation was based on an undisclosed evaluation criterion.<sup>3</sup> RIVA also challenges the evaluation of its quotation under the management approach and past performance factors, arguing that it should have received ratings higher than acceptable under both. For the reasons discussed below, we find reasonable the agency’s evaluation of RIVA’s quotation as unacceptable under the technical capability factor. In light of this conclusion and because, as noted above, a rating of unacceptable rendered a quotation ineligible for award, we need not address the protester’s challenge to its evaluation under the management approach and past performance factors.<sup>4</sup>

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<sup>3</sup> Although RIVA also received 16 weaknesses under this factor, the contracting officer explains in response to the protest that the agency’s decision to rate RIVA’s quotation unacceptable under the technical capability factor “is more than justified by the 8 sub-factors” being evaluated as “significantly weak.” See COS/MOL at 11. The contracting officer explains that the “plethora of significant weaknesses spread across the entire PWS more than justifies NOAA’s unacceptable rating under the stated evaluation plan, thereby making RIVA ineligible for an award.” *Id.* He further explains that “[w]hile the 16 additional weaknesses are further evidence of RIVA’s lack of technical capability and experience with NOAA’s stated requirements,” RIVA’s unacceptable rating did not “hinge upon those 16 weaknesses.” *Id.* This statement by the agency is supported by the contemporaneous record, including the award decision document, which only references the “multiple significant weaknesses” in discussing RIVA’s unacceptable rating under the technical approach factor. AR, Tab 41, Award Decision Document, at 75 (“The quot[ation] did meet some of the requirements listed under the PWS but failed to address areas of the PWS resulting in multiple significant weaknesses.”). In light of the agency’s position, the protester did not continue to pursue its allegations regarding the weaknesses. See Comments at 12. Accordingly, we do not address the agency’s evaluation of the weaknesses in this decision.

<sup>4</sup> Although we do not specifically address all of RIVA’s arguments, we have fully considered all of them and find that none provides a basis on which to sustain the protest.

Where, as here, an agency issues an RFQ to FSS vendors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the agency's evaluation is reasonable and consistent with the terms of the solicitation. *Digital Sols., Inc.*, B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4; *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the quotations; rather, we will examine 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. *OPTIMUS Corp.*, B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *DEI Consulting, supra*.

RIVA challenges the evaluation of its quotation as unacceptable under the technical capability factor, arguing that each of the significant weaknesses assigned to its quotation under this factor was unreasonable and based on an unstated evaluation criterion. The protester contends that the agency improperly found significant weaknesses in RIVA's quotation due to RIVA's failure to address all sub-tasks identified for each PWS service area under the technical capability factor. The protester maintains that the RFQ did not require that vendors address in their quotations all sub-items identified within each PWS service, and that RIVA's quotation adequately responded to the solicitation's requirements.

As noted above, for the technical capability factor, the RFQ required that vendors "provide [their] corporate experience using the format in [the technical matrix] organized by the six core management components and its forty respective service areas in accordance with the PWS." RFQ at 354. The solicitation also specified that vendors "summarize the size, scope, and complexity of work performed by the [vendor]" as it relates to the "six core management components and its forty respective service[s] areas in accordance with the PWS utilizing" the attachment 5 technical matrix. *Id.* at 35. The solicitation provided that the agency would evaluate the extent to which the vendor "demonstrates the understanding and capability to meet the [g]overnment's requirements in accordance with" the technical matrix. *Id.* at 38-39.

The agency rated RIVA's quotation unacceptable under the technical capability factor based on the assessment of significant weaknesses for eight PWS service areas. The agency assigned these significant weaknesses based on the quotation's failure to address many of the specified services identified in the PWS for these eight service areas. AR, Tab 33, Tech. Report, at 1-7; COS/MOL at 13; AR, Tab 41, Award Decision Document, at 75-76. For example, for PWS 3.1.5.6, Voice Installation, Operations, and Maintenance, the evaluators found that RIVA's quotation did not "document past experience supporting [plain old telephone service] POTS, as required by the PWS." AR, Tab 33, Tech. Report, at 7. The evaluators also found that RIVA's quotation did not "document past experience with service coordination of interruptions and outages; responding to incidents and outages; corrective actions to resolve issues; and escalating issues that are not resolved." *Id.* The agency found that the failure of RIVA's

quotation to address all PWS requirements for this service area was a “significant weakness as the risk to the government of unsuccessful contract performance is very high.” *Id.*

As another example, for PWS 3.1.4.10, Service Delivery Center, Data Center, and Equipment Room IT Management, the evaluators determined that RIVA’s quotation did not address “tracking equipment rack heating, ventilation, and air conditioning (HVAC), equipment and rack power requirements, and data center access control” as required by the PWS. *Id.* at 4. The evaluators also found that RIVA’s quotation did not address “support for facility occupancy and lease agreements; facility utilities, maintenance services; other facility support services (alarms, fire, police, etc.); office infrastructure, office equipment management; and computer room infrastructure management.” *Id.* The evaluators stated that “[i]t is difficult . . . to assess [the vendor’s] capabilities in this area,” and therefore, concluded that “[t]his is a significant weakness because it appreciably increases the risk of unsuccessful contract performance.”<sup>5</sup> *Id.*

The protester does not dispute that its quotation did not address the portions of the PWS identified by the evaluators. Comments at 6-7, 13-14; Supp. Comments at 2-4. The protester also does not dispute that the PWS identified the items that the evaluators determined were not addressed in RIVA’s quotation. *Id.* Rather, the protester argues that the agency unreasonably interpreted the solicitation as requiring that vendors’ quotations address all PWS requirements.

In support of its argument that the agency’s interpretation was unreasonable, the protester points to the sentence in the RFQ that provided that, for the technical capability factor, the agency would evaluate quotations based on the “extent to which the [vendor] demonstrates the understanding and capability to meet the Government’s requirements in accordance with Attachment 5.” RFQ at 38. The protester notes the general nature of this provision, and argues that neither this sentence, nor anything else in the solicitation, advised vendors that they were required specifically to address every sub-element identified under the PWS service areas. Comments at 4-5. The protester also points to the attachment 5, technical factor matrix, noting that it consisted of rows for each PWS service area, and instructed vendors to describe their corporate experience by listing “[u]p to 2 examples for each service area.” AR, Tab 1e, RFQ, attach. 5, Technical Matrix, at 1. The protester argues that vendors “could not reasonably be expected to address experience in each and every example within the extremely confined [quotation] space the [a]gency afforded” in the technical matrix. Supp. Comments at 4.

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<sup>5</sup> The protester also argues that the agency’s assessment of this significant weakness was unreasonable because the agency criticized RIVA’s “approach” with no explanation of how this relates to either RIVA’s “understanding and capability” or its experience. Protest at 5. As discussed below, however, we find the agency’s assessment of this significant weakness was reasonable based on the agency’s determination that RIVA’s quotation failed to adequately address all of the PWS requirements for this service area. Accordingly, we find no merit to this argument.

The agency disagrees with the protester and contends the solicitation articulated that vendors were required to discuss their capability and experience in performing all PWS service areas, which encompassed the specific requirements identified as sub-elements of all PWS service areas. See RFQ at 35, 38 (“The Quoter shall summarize the size, scope, and complexity of work performed by the [vendor] and (if applicable) their subcontractors and [Contractor Team Arrangements] CTA members as it relates to the six core management components and its forty respective service areas in accordance with the PWS utilizing Attachment 5.”).

Additionally, the agency points to questions and answers (Q&As), incorporated into the RFQ via amendment 3, which the agency asserts, further clarified the requirement that a vendor must demonstrate experience and capability to meet all of the specified requirements for each PWS service area, including the sub-elements. AR, Tab 3, RFQ, amend. 3. For example, in response to a question asking whether a vendor could respond to “one or a subset of Core Components,” the agency stated that “[t]he [vendor] must meet the entire PWS.” *Id.* at 2. Similarly, in response to another question asking whether a vendor could compete for just one core management component and not for multiple core management components, the agency again advised that a vendor “must meet the entire PWS” under the technical capability factor. *Id.*

Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that gives effect to all of its provisions; to be reasonable, and therefore valid, an interpretation must be consistent with the solicitation when read as a whole and in a reasonable manner. *Alluviam LLC*, B-297280, Dec. 15, 2005, 2005 CPD ¶ 223 at 2.

In our view, the solicitation language, read as a whole, including the agency’s questions and answers, supports the agency’s interpretation and fails to support RIVA’s interpretation. The RFQ required that vendors summarize their experience with the pertinent PWS service areas, using the technical matrix. RFQ at 35, 38. The solicitation’s Q&As clarified that, for the technical capability factor, vendors “must meet the entire PWS,” which for some service areas included a bulleted list of sub-elements.<sup>6</sup> AR, Tab 3, RFQ, amend. 3; Tab 1a, RFQ, attach. 1, PWS, at 4-24. To conclude that vendors were not required to meet all sub-elements would ignore the plain meaning of

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<sup>6</sup> To the extent RIVA believed, based on its reading of the solicitation and the language in the technical matrix, that vendors were not required to address all of the sub-element requirements identified under each PWS service area, such an interpretation clearly conflicted with the information provided by the agency in the questions and answers. Any ambiguity regarding these provisions was patent, *i.e.*, clear or obvious on the face of the RFP, rather than latent, and as such, a protest on this ground was required to be filed prior to the submission of proposals. 4 C.F.R. § 21.2(a)(1); *U.S. Facilities, Inc.*, B-293029, B-293029.2, Jan. 16, 2004, 2004 CPD ¶ 17 at 10. The protester’s failure to do so renders it untimely now.

the word “entire.”<sup>7</sup> Accordingly, we find the agency’s interpretation of the RFQ is reasonable and the protester’s interpretation is not.

Based on our conclusion that the agency’s interpretation of the solicitation as requiring vendors to address the entire PWS, including the sub-elements, for each service area, is the only reasonable interpretation of the RFQ, we also find reasonable the agency’s evaluation of the significant weaknesses to RIVA’s quotation under the technical capability factor for failing to address all sub-elements for each service areas as required by the RFQ. As we have recognized, it is a vendor’s obligation to submit an adequately-written quotation for the agency to evaluate, and a quotation that fails to address the solicitation requirements may reasonably be downgraded for lacking sufficient detail. See *Undercover Training, LLC*, B-418170, Jan. 9, 2020, 2020 CPD ¶ 25 at 4-5 (denying protest challenging weaknesses and significant weaknesses where the proposal failed to address the requirements of the PWS). The record reflects that RIVA’s quotation failed to address all of the PWS requirements for each service area as required by the RFQ. AR, Tab 33, Tech. Report, at 1-7. On this record, we find no basis to object to the agency’s determination that RIVA’s failure to address numerous PWS requirements for eight of the service areas failed to establish RIVA’s capability to meet the government’s requirements for those service areas as specified by the RFQ. See RFQ at 38 (“The Government will evaluate . . . [t]he extent to which the [vendor] demonstrates the understanding and capability to meet the [g]overnment’s requirements[.]”).<sup>8</sup> To the extent the protester disagrees with the agency’s evaluation,

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<sup>7</sup> See, e.g., Entire, Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/entire> (last visited Oct. 26, 2020) (including as definitions, “having no element or part left out.”).

<sup>8</sup> The protester raises a new argument in response to the agency report, alleging that the agency unreasonably determined that RIVA’s quotation “contains solutions that are not feasible or practical” and that this conclusion was inconsistent with the RFQ evaluation scheme for the technical capability factor, which the protester asserts required the agency to evaluate vendors based on their prior experience. Comments & Supp. Protest at 10-11; Supp. Comments at 6-7. The evaluators’ conclusion, however, that RIVA’s quotation, under the technical capability factor, “contains solutions which are not feasible and [not] practical” and therefore posed a very high risk of unsuccessful performance, was included in the agency’s technical evaluation report. AR, Tab 33, Tech. Report, at 1. This report was provided to RIVA on July 13, 2020, when the protester was notified by the agency that its quotation was not one of the most highly technically rated with a fair and reasonable price. Supp. COS/MOL at 6; AR, Tab 42, Unsuccessful Vendor Letter, at 1. As such, the protester’s new arguments regarding the agency’s alleged improper evaluation method could have been made in RIVA’s initial protest filing. Because the protester failed to raise these issues at that time, they are untimely. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (requiring protest issues be filed within 10 days after the basis is known or should have been known); *Lanmark Tech., Inc.*, B-410214.3, Mar. 20, 2015, 2015 CPD ¶ 139 at 5 n.2 (piecemeal presentation of protest grounds, raised for the first time in comments, are untimely).

such disagreement, without more, fails to establish that the evaluation was unreasonable. *DEI Consulting, supra*. Accordingly, we find reasonable the agency's assessment of the significant weaknesses for those services areas. As noted above, an unacceptable rating was defined as a quotation that "fails to meet requirements" and contains "multiple significant weaknesses and/or deficiencies." AR, Tab 41, Award Decision Document, at 5. Additionally, a rating of unacceptable under any single factor would render a quotation ineligible for award. *Id.* Based on our review, we find nothing unreasonable regarding the agency's evaluation here.

The protest is denied.

Thomas H. Armstrong  
General Counsel