



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

# Decision

**Matter of:** Verizon Business Network Services, Inc.

**File:** B-418073; B-418073.2; B-418073.3

**Date:** December 26, 2019

---

Jonathan D. Shaffer, Esq., Mary Pat Buckenmeyer, Esq., Todd M. Garland, Esq., and John S. Pachter, Esq., Smith Pachter McWhorter PLC, for the protester. Shelly L. Ewald, Esq., and Emily C. Brown, Esq., Watt Tieder Hoffar & Fitzgerald, LLP, for Qwest Government Services, Inc. d/b/a CenturyLink QGS, the intervenor. William B. Blake, Esq., and Robert D. Banfield, Esq., Department of the Interior, for the agency. Heather Self, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

1. Protester's challenge to the agency's evaluation of assumptions made in the awardee's price proposal is denied because the awardee's assumptions do not take material exception to the solicitation's requirements.
  2. Protester's challenges to its own evaluation, the agency's conduct of discussions, and the agency's best-value tradeoff are dismissed because at the time of award the protester's underlying indefinite-delivery indefinite-quantity contract did not include all of the services required by the solicitation.
- 

## DECISION

Verizon Business Network Services, Inc., of Ashburn, Virginia, protests the issuance of a task order to Qwest Government Services, Inc., d/b/a CenturyLink QGS, of Arlington, Virginia, under task order request for proposals (RFP) No. 140D04-19-R-0002, issued by the Department of the Interior (DOI) for data communications and associated information technology services and equipment. The protester challenges the agency's evaluation of its own proposals under the technical, past performance, and price factors; the agency's conduct of discussions; the agency's evaluation of assumptions made in one of the awardee's price proposals; and the agency's best-value tradeoff.

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

## BACKGROUND

The agency issued the RFP on January 25, 2019, under the General Services Administration's (GSA) Enterprise Infrastructure Solutions (EIS) multiple-award indefinite-delivery indefinite-quantity (IDIQ) government-wide acquisition contract using the procedures of Federal Acquisition Regulation (FAR) subpart 16.5. Agency Report (AR), Tab 5, RFP Standard Form 33. The agency divided its requirements into two task areas, each of which would be evaluated separately and could be awarded separately to different EIS IDIQ contract holders or could be awarded together to the same EIS IDIQ contract holder. Id.; AR, Tab 40, RFP, at 147.

Task Area 1 was for managed core network services, requiring the successful contractor to "provide the necessary services to design, engineer, build, secure, operate and maintain the [DOI's] enterprise network." RFP at 41. Further, the successful contractor would provide service-related equipment (SRE) to support software defined wide-area network (SD-WAN) capability; virtual private network service; private line service; and other EIS services needed to transport DOI's private, internal, enterprise network, including provision of external network-to-network interfaces to connect the agency's data services to external resources. Id. Task Area 2 was for managed access services, requiring the successful contractor to "provide [internet protocol services] and commercial fixed satellite services to connect to the enterprise core network." Id.

The solicitation contemplated issuance of one or more time-and-materials task order(s) with a base period from the date of award to March 31, 2021, followed by ten 1-year option periods, and a final 16-month option period. Id. at 98. The solicitation advised offerors that the agency intended to make award in fiscal year 2019 (*i.e.*, before September 30, 2019), as transitioning from the existing contracts for the solicited services needed to occur by May 2020. AR, Tab 24, RFP Modification No. 3, Questions and Answers, at Q&A No. 78.

The solicitation established that the agency would evaluate each task area separately, and that award, or awards, would be made using a best-value tradeoff source selection process, considering three factors, listed in descending order of importance: (1) technical; (2) past performance; and (3) price. RFP at 147-148. Three equally weighted subfactors comprised the technical evaluation factor: (1) design and approach; (2) service delivery, operations, and management approach; and (3) transition. Id. The non-price factors, when combined, were more important than price. Id. The price evaluation included a review of total, unit, and optional prices to ensure prices were fair and reasonable, appropriately balanced, reflected an accurate understanding of the solicitation requirements, and were consistent with an offeror's proposed technical approach. Id. at 153-154. The price evaluation included both the mandatory, or current, requirements, and optional requirements set forth in the solicitation. Id. The price evaluation also included all option periods based on extrapolating out the monthly price for option period 2 to all subsequent option years. Id. The solicitation required offerors to prepare their price proposals using the pricing workbooks that were included in the solicitation. Id.

As relevant here, the terms of the underlying EIS IDIQ contract precluded a contract holder from accepting orders for services not on its IDIQ contract, but it could respond to ordering agency solicitations that included missing service(s) if it submitted a modification request to GSA for the missing service(s) and notified the agency of the pending modification(s) in its proposal submission. AR, Tab 2, GSA EIS IDIQ Contract No. GS00Q17NSD3009, at 10-11 § G.3.2.5. In guidance on use of the EIS IDIQ contracts, GSA further explained that an ordering agency “may not award a task order” to a contract holder if the firm’s contract was missing service(s) required by the agency’s solicitation until GSA approved any pending modification(s) submitted by the contractor for the missing service(s). Enterprise Infrastructure Solutions Fair Opportunity and Ordering Guide, Ver. 4.0, GSA, June 5, 2018, at 17.

The solicitation closed on April 12, 2019, and the agency received four proposals--one each from Verizon and CenturyLink for each of the task areas. AR, Tab 120, Award Summary Source Selection Decision (SSD), at 9. CenturyLink’s initial proposals identified pending modifications submitted to GSA for addition of missing services to its EIS IDIQ contract. Request for Dismissal, at 2.<sup>1</sup> Verizon’s initial proposals both indicated that Verizon did not require any modifications to its EIS IDIQ contract, providing that “Verizon already has on contract all services” including optional services. AR, Tab 45, Verizon Task Area 1 Initial Price Proposal, at 9; Tab 55, Verizon Task Area 2 Initial Price Proposal, at 5.

From April 18 to August 4, the agency conducted evaluations and engaged in multiple rounds of exchanges with each offeror. AR, Tab 1, Contracting Officer’s Statement (COS), at 2-4. During exchanges, Verizon revised its proposals to include notice of necessary modifications to its EIS IDIQ contract. On June 24, Verizon notified the agency that it had submitted two modification requests “in support of [DELETED]” for Task Area 1 to GSA on May 13, that it was in the process of submitting 26 additional modification requests for Task Area 1, and that its target date for submission to GSA was July 31. AR, Tab 98, Verizon Task Area 1 Revised Price Proposal, at 11-12. Similarly, for Task Area 2, Verizon notified the agency that it was in the process of submitting 25 modification requests with the same July 31 target submission date. AR, Tab 107, Verizon Task Area 2 Revised Price Proposal, at 9-10. On July 26, the agency requested, and subsequently received, updates on the status of each offeror’s EIS IDIQ contract modifications. COS at 3. As of July 29, CenturyLink had three modifications completed and three pending with GSA. AR, Tab 118, Evaluation Consensus Report, at 9. Verizon had zero modifications completed, two pending, and 51 unsubmitted modifications, six of which it intended to submit by July 31 and the remaining 45 of which it intended to submit by August 31. *Id.* at 10, 97; COS at 3.

---

<sup>1</sup> The agency’s request for dismissal was not paginated; our Office added the page numbers herein cited.

On August 5, the evaluators concluded their work and recommended CenturyLink for award of both task areas on the basis of its higher-rated lower-priced proposals. AR, Tab 118, Evaluation Consensus Report, at 7. The final evaluation results were as follows:

OFFEROR	TASK AREA 1		TASK AREA 2	
	CenturyLink	Verizon	CenturyLink	Verizon
<b>Technical Design &amp; Approach</b>	Very Good	Satisfactory	Very Good	Satisfactory
<b>Service Delivery, Operations, &amp; Management Approach</b>	Very Good	Satisfactory	Very Good	Satisfactory
<b>Transition</b>	Very Good	Very Good	Exceptional	Very Good
<b>Past Performance</b>	Satisfactory Confidence	Satisfactory Confidence	Satisfactory Confidence	Satisfactory Confidence
<b>Price Fair &amp; Reasonable</b>	Yes	Yes	Yes	Yes
<b>Price Balanced</b>	Yes	Yes	Yes	Yes
<b>Price Reflects Requirements Understanding</b>	Yes	Yes	Yes	No
<b>Price Consistent with Technical Proposal</b>	Yes	Yes	Yes	Yes
<b>Price - Final Proposed</b>	\$1,525,729,208	\$2,432,230,792	\$1,100,907,475	\$2,062,375,358
<b>Price - Total Evaluated</b>	\$7,569,611,709	\$12,474,593,282	\$5,854,182,078 <sup>2</sup>	\$10,889,072,898
<b>Recommended for Award</b>	Yes	No	Yes	No

Id.; AR, Tab 120, SSD, at 12-13, 76. The source selection authority concurred with the evaluators' assessments, and concluded that award to CenturyLink for both task areas represented the best value to the government as CenturyLink "provided the best overall solution at the lowest price." AR, Tab 120, SSD, at 80.

<sup>2</sup> The awarded value of each individual task order at issue exceeds \$10 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts. 41 U.S.C. § 4106(f)(1)B).

On September 3, the agency again requested updates on the status of each offeror's modifications. COS at 4. On September 4, CenturyLink responded that its number of pending modifications had increased to four, and Verizon responded that it had nine pending modifications and an additional 44 modifications it was working to submit to GSA by September 20. Id.; AR, Tab 120, SSD, at 60, 64. In the SSD, dated September 18, the agency noted that both offerors proposed prices not included on their EIS IDIQ contracts, and that the agency was precluded from making award until GSA modified the IDIQ contracts. AR, Tab 120, SSD, at 78, 80. The agency further noted that "[i]f the required GSA modifications are not completed in time to execute the task order award during fiscal year 2019, then the [contracting officer] will issue a written Notification of Award to the successful offeror and issue an Unsuccessful Letter to the unsuccessful offeror." Id. at 78. On September 19, the agency confirmed with GSA that all of CenturyLink's modifications were completed, and issued task orders for both task areas to CenturyLink. COS at 4. The following day the agency notified Verizon of the award, and, after receiving a debriefing, Verizon filed this protest with our Office.<sup>3</sup>

## DISCUSSION

Verizon's arguments primarily concern its own proposals--it challenges multiple aspects of the agency's evaluation of its own proposals, the agency's conduct of its discussions, and argues that the flawed evaluation of its proposals led to an unreasonable best-value tradeoff decision. Verizon challenges a single aspect of the agency's evaluation of CenturyLink's proposals--the evaluation of price assumptions included in CenturyLink's price proposal for Task Area 1.<sup>4</sup> For the reasons discussed below, we deny Verizon's challenge to the agency's evaluation of CenturyLink's price assumptions. Because we find no reason to sustain the protest challenging the awardee's technical acceptability, and because at the time of award the protester's underlying EIS IDIQ contract did not include all of the services required by the solicitation, we need not reach the protester's arguments concerning its own proposals.

---

<sup>3</sup> After Verizon submitted its protest, the agency contacted GSA for an update on the status of Verizon's EIS IDIQ contract modifications. COS at 4. As of September 30, Verizon had not yet submitted all 44 of the modifications identified as in progress in its September 4 status update to the agency. Id. During the pendency of the protest, our Office requested an update from Verizon on the status of its EIS IDIQ contract modifications. Verizon's counsel represented that, as of November 25, Verizon had submitted all requests to GSA "for modifications Verizon would need to perform upon award," and that an unspecified number of the modifications were still pending GSA approval. Protester's Supp. Comments at 14.

<sup>4</sup> Verizon initially protested that the agency improperly credited CenturyLink with proposing a broadband solution, but Verizon later withdrew this protest ground. Protester's Comments and Second Supp. Protest at 5 n. 4.

## Awardee's Price Assumptions

Verizon argues that the agency failed to evaluate the assumptions submitted with CenturyLink's price proposal for Task Area 1, and that five of CenturyLink's assumptions constitute exceptions to material terms of the solicitation. Protester's Comments and Second Supp. Protest at 2, 13-16. In negotiated procurements, any proposal that fails to conform to material terms and conditions of the solicitation should be considered unacceptable and may not form the basis for an award. Rel-Tek Sys. & Design, Inc., B-280463.3, Nov. 25, 1998, 99-1 CPD ¶ 2 at 3. Our review of the record finds that the agency reasonably concluded that none of CenturyLink's challenged assumptions took exception to a material requirement of the solicitation.

The solicitation instructed offerors to include in their price proposals a "Price Assumptions, Conditions, Or Exceptions" section, and to include in this section any price related assumptions. RFP at 133. The solicitation provided that price assumptions, conditions, and exceptions would be evaluated "to determine if they are reasonable and acceptable to the Government," and cautioned offerors that "[i]f the Government deems any single proposal term or condition to be unacceptable, the Offeror may be found ineligible for award." Id. at 133, 154. CenturyLink's final revised price proposal for Task Area 1 included 18 items in its price assumptions section. AR, Tab 131, CenturyLink Task Area 1 Revised Price Proposal, at 8-13. The evaluators noted CenturyLink's price assumptions in their report, and found them acceptable to the government. AR, Tab 118, Evaluation Consensus Report, at 89-92; see also Tab 120, SSD, at 60-63. While Verizon asserts that the evaluation was unreasonable, we agree with the agency that the protester has not shown how the five specific assumptions it challenges take exception to material provisions of the solicitation.

Verizon argues that CenturyLink's proposal excluded required SRE from its pricing focusing on two words--"excludes SRE"--excerpted from CenturyLink's first price assumption. Protester's Comments and Second Supp. Protest at 13, 15. The record does not support Verizon's argument, which fails to account for the complete context of the challenged assumption. CenturyLink's complete first price assumption for Task Area 1 provides: "Pricing in the [Task Area] 1 Pricing Workbook excludes SRE. SRE is available in the SRE Catalog based on the associate[d] CLIN and Case Number noted in the pricing tables." AR, Tab 131, CenturyLink Task Area 1 Revised Price Proposal, at 8. The solicitation required offerors to provide their equipment catalog in addition to their completed pricing workbooks, RFP at 132, which is what CenturyLink's first assumption addresses. Further, the record reflects that the pricing workbook included in the solicitation had an "Additional Optional Equipment" worksheet, which CenturyLink completed with priced offerings from its SRE catalog. AR, Tab 134, CenturyLink Task Area 1 Final Pricing Workbook, at Additional Optional Equipment Worksheet. Thus, there is no basis for the protester's contention that the awardee's proposal took exception to the requirement to provide pricing for SRE.

Verizon also argues that CenturyLink's price assumptions five through eight show that CenturyLink offered SD-WAN service, rather than SD-WAN capability, as required by the solicitation. Protester's Comments and Second Supp. Protest at 13-15 citing RFP at 41 ("DOI is seeking a[n] SD-WAN capability as part of Task Area 1, not a[n] SD-WAN service, as referenced in Section C.4. The contractor shall propose a[n] SD-WAN capability to include all the necessary components to meet the SD-WAN requirements identified in Section C."). Verizon provides no explanation for its conclusion that CenturyLink's assumptions indicate an offering of SD-WAN service, rather than capability, nor does the record support Verizon's assertion.

For example, CenturyLink's price assumption five for Task Area 1 provides:

The GFE [government furnished equipment] will be initially assessed to meet the SD-WAN requirements and/or to be managed by CenturyLink. In cases where the hardware is not certified to be managed or a refresh is required, CenturyLink will recommend comparable or SD-WAN compatible equipment, components and/or features from the EIS SRE Catalog. Associated install or upgrade fees will apply.

AR, Tab 131, CenturyLink Task Area 1 Revised Price Proposal, at 8. The solicitation provided that the pricing workbooks contained a list of the current GFE, and that the agency "may elect to continue to use" the existing GFE or may "request replacement with new SRE." RFP at 132. The solicitation required offerors to propose pricing for the management and maintenance of the GFE and to include separately their equipment catalog for pricing of optional SRE. Id. CenturyLink's pricing assumption five is consistent with these instructions. Further, CenturyLink specifically offers to recommend SD-WAN compatible equipment to replace any GFE the agency may choose to update. Verizon's conclusory statement that this price assumption somehow indicates that CenturyLink proposed SD-WAN service, rather than SD-WAN capability, is wholly unsupported.

As a further example, CenturyLink's price assumption eight for Task Area 1 provides:

Managed Wireless LAN [local area network] [p]ricing [in] the [Task Area] 1 Pricing Workbook includes installation, management and maintenance of a single [DELETED] functionality supporting up to the required [DELETED] concurrent users. Managed Wireless LAN pricing does not cover installation, management and maintenance of additional equipment, components or accessories due to site construction material/obstructions/interference. Alternative SRE, such as the [DELETED] capability with [DELETED]. However, this SRE is does not meet [sic] the uCPE [universal customer premises equipment] requirements as specified in this RFP. CenturyLink and DOI can evaluate these alternatives post-award.

AR, Tab 131, CenturyLink Task Area 1 Revised Price Proposal, at 9. Again, Verizon provides no explanation of how this assumption related to provision of managed wireless LAN equipment indicates that CenturyLink proposed SD-WAN service, rather than SD-WAN capability, or why it was unreasonable for the agency to find acceptable CenturyLink's proposal of compliant equipment coupled with a recommendation for alternative equipment. Based on the record here, Verizon's conclusory allegations are wholly unsupported. Accordingly, we find no basis to sustain the protest. See Arrington Dixon & Assocs., Inc., B-409981.1, B-409981.2, Oct. 3, 2014, 2014 CPD ¶ 284 at 11-12.

### Dismissal of Remaining Protest Grounds

In addition to challenging the agency's evaluation of CenturyLink's pricing assumptions, Verizon challenges almost every aspect of the agency's evaluation of its own proposal, alleges that the agency failed to hold meaningful discussions, and contends that the flawed evaluation resulted in the agency conducting an unreasonable best-value tradeoff.<sup>5</sup> See Protest. We need not reach these arguments as Verizon's proposals could not form the basis for award at the time the agency issued the protested task orders because Verizon's underlying EIS IDIQ contract did not include all services required by the solicitation. See e.g., Asset Protection & Sec. Servs., LP, B-406474.2, July 17, 2012, 2012 CPD ¶ 210 at 4-5 (denying protest that agency improperly rejected quotation in a federal supply schedule (FSS) acquisition where the protester's FSS contract did not include all items and rates required by the solicitation, notwithstanding the protester's pledge to modify its FSS contract); HP Enter. Servs., LLC, B-405692, Dec. 14, 2011, 2012 CPD ¶ 13 (denying protest that agency improperly excluded quotation from consideration for award where the protester failed to demonstrate, at the time of award, compliance with the solicitation's requirement that its underlying FSS contract would be active at the time an option to extend the task order might be exercised).

As explained above, the underlying EIS IDIQ contract required completion of any modifications necessary to add missing services solicited by an agency before issuance of a task order to a contract holder. AR, Tab 2, GSA EIS IDIQ Contract

---

<sup>5</sup> Verizon also raised several protest grounds based on its understanding that it was excluded from the competition due to its failure to timely complete necessary modifications to its underlying EIS IDIQ contract. See First Supp. Protest. The record reflects that Verizon was not excluded from the competition; Verizon's proposals were evaluated fully and considered as part of the agency's best-value award decision. See AR, Tab 118, Evaluation Consensus Report; Tab 120, SSD. Accordingly these allegations are dismissed for failing to state a valid basis of protest. See Bid Protest Regulations 4 C.F.R. §§ 21.1(c)(4), (f); AeroSage, LLC, B-417289.2, May 14, 2019, 2019 CPD ¶ 180 at 3-4; Midwest Tube Fabricators, Inc., B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3.



No. GS00Q17NSD3009, at 10-11 § G.3.2.5; see also Enterprise Infrastructure Solutions Fair Opportunity and Ordering Guide, Ver. 4.0, GSA, June 5, 2018, at 17. Throughout the course of exchanges with the offerors, Verizon notified the agency it would be requesting 53 modifications to its EIS IDIQ contract. COS at 3-4; AR, Tab 98, Verizon Task Area 1 Revised Price Proposal, at 11-12; Tab 107, Verizon Task Area 2 Revised Price Proposal, at 9-10. As of September 4, Verizon had yet to submit 44 of its 53 modifications. COS at 4; AR, Tab 120, SSD, at 60, 64. As of September 30, eleven days after the September 19 award date, Verizon still had yet to submit to GSA multiple modification requests. COS at 4.

Verizon represents that an unspecified number of its 53 modifications were for “[DELETED] items concerning [DELETED][.]” Protester’s Response to Request for Dismissal at 1. To the extent Verizon argues that modifications for [DELETED] did not need to be completed in order for it to accept issuance of a task order including those [DELETED], we need not determine whether such an argument would be correct. Verizon admits that at least some of its 53 modifications are ones which “Verizon would need to perform upon award,” and that as of November 25 some of these necessary modifications were still pending GSA approval. Protester’s Supp. Comments at 14. Accordingly, Verizon could not have accepted issuance of a task order on the September 19 date of award. Further, the agency was not required to delay its award indefinitely to allow Verizon to complete its modifications. See e.g., Chags Health Info. Tech., LLC, B-413104.30, B-413104.37, Apr. 11 2019, 2019 CPD ¶ 145 at 8 n. 8 (analogously recognizing that agencies need not delay awards indefinitely in order to allow offerors to provide information necessary to demonstrate responsibility).

The protest is denied in part and dismissed in part.

Thomas H. Armstrong  
General Counsel