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## Decision

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

**File:** B-418132

**Date:** January 14, 2020

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Greenberg Traurig, LLP, for Oscar Deuce, LLC dba ODL Services, LLC, the intervenor.  
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participated in the preparation of the decision.

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### DIGEST

Protest that the agency improperly evaluated the protester's proposal as technically unacceptable is denied where the record shows that the agency's evaluation was reasonable and consistent with the terms of the solicitation.

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### DECISION

ITI Solutions, Inc., of San Antonio, Texas, protests the award of a contract to Oscar Deuce, LLC dba ODL Services, LLC, of Virginia Beach, Virginia, under request for proposals (RFP) No. FA002119RA004, issued by the Department of the Air Force for flight training services. The protester challenges several aspects of the agency's evaluation of its proposal, including the agency's evaluation of its proposed staffing as technically unacceptable.

We deny the protest.

### BACKGROUND

The RFP, issued on May 8, 2019, as a service-disabled veteran-owned small business set-aside, sought a contractor to provide flight training services for the Air Force Special

Operations Command.<sup>1</sup> AR, Tab 3, RFP, at 5; PWS at 3.<sup>2</sup> The contractor would be required to provide all personnel, supervision, transportation, and all other necessary items and services. RFP at 5; PWS at 3. Of relevance here, the RFP required the contractor to provide aircrew and stated that “contractor[-]provided mission aircrew shall perform mission planning, mission pre-briefs, sortie execution[,], and debrief and post-mission documentation.” PWS at 3.

The RFP contemplated the award of a fixed-price contract with a base year period and two 1-year option periods for a total anticipated value of over \$20 million. RFP at 3-4; PWS at 12; Contracting Officer’s Statement (COS), Nov. 6, 2019, at 3. The RFP established that award would be made on a best-value tradeoff basis, weighing three factors: technical capability, past performance, and price. RFP amend. 4 at 11-12.

With respect to the technical capability factor, the RFP provided that the agency would evaluate proposals based on the offeror’s understanding of and ability to meet the solicitation requirements. RFP amend. 4 at 13. Of relevance here, the technical capability factor included a staffing component for which offerors were required to submit a staffing plan and for which the agency would assign a combined technical capability and technical risk rating.<sup>3</sup> Id. The RFP provided estimated workload requirements and advised that the staffing component would be met when the offeror’s proposed staffing plan “demonstrate[s] a reasonable approach to meeting the estimated workload requirements identified in Appendix B of the PWS within 30 days of contract award.” Id. at 15; see also PWS at 13, 16.

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<sup>1</sup> Specifically, the requirement would be for Air Force Special Operations MC-12 mission aircrew support for tactical system operators at the Will Rogers National Guard Base in Oklahoma City, Oklahoma. Agency Report (AR), Tab 6b, RFP, Performance Work Statement (PWS), at 3.

<sup>2</sup> The agency issued four amendments to the RFP that included two revisions to the PWS and one set of clarifications to the solicitation’s proposal submission instructions and evaluation criteria. Our decision cites to the most recent versions provided by the agency. See PWS; AR, Tab 8, RFP amend. 4, June 7, 2019.

<sup>3</sup> For the combined technical capability and technical risk rating, the RFP defined an unacceptable rating as: “Proposal does not meet requirements of the solicitation, and thus contains one or more deficiencies, and/or risk of unsuccessful performance is unacceptable. Proposal is unawardable.” RFP amend. 4 at 14. For technical capability, the RFP defined a deficiency as: “A material failure of a proposal to meet a Government requirement or a combination of weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.” Id. at 13. For technical risk, the RFP defined an unacceptable level of risk as: “Proposal contains a material failure or a combination of significant weaknesses or combination of weaknesses that increases the risk of unsuccessful performance to an unacceptable level.” Id. at 14.

For the estimated workload requirements, the RFP provided that the contractor would be required to support 80 sorties per month, including up to six sorties per day with up to three sorties occurring simultaneously. PWS at 3, 16. The RFP also provided that “[p]ilots may fly more than one sortie per day provided they comply with duty day requirements in 14 Code of Federal Regulations [C.F.R.] Part 135.265.”<sup>4</sup> Id. at 12; see also AR, Tab 6a, Questions and Answers, June 5, 2019, at 9 (incorporating the reference to duty day requirement per 14 C.F.R. § 135.265 in response to a question about the permissibility of allowing “the same pilot [to] fly one flight in the morning and one in the afternoon”). As applicable to this procurement, this provision requires aircrew to take 9 hours of rest because a double-turn could take up to 7 hours of flight time. See Memorandum of Law (MOL), Nov. 6, 2019, at 14; see also PWS at 16 (noting that the historical maximum sortie length is 3.5 hours).

On or before June 12, 2019, the agency received proposals from 11 offerors, including ITI and Oscar Deuce. The source selection evaluation board (SSEB) evaluated the proposals and recommended Oscar Deuce for award. With regard to ITI’s proposal, the SSEB assigned an unacceptable rating under the staffing component based on the following:

The requirement was not met. The offeror’s proposed staffing (labor and category of personnel) timelines and rationale did not demonstrate a reasonable approach to meeting the estimated workload requirements identified in Appendix B of the PWS within 30 days of contract award. [ . . . ]

Deficiency: The offeror’s proposed [REDACTED] aircrew ([REDACTED] pilots, [REDACTED] [combat system operator] in each aircrew) in Figure 4, page 15 of their proposal and plan to regularly double turn (2x2) with supporting aircraft to support 3x2 and 3x3 as necessary (page 41 of the proposal) was not feasible because the PWS required crews to be part of all briefs which overlap between scheduled sorties. Section 2.2 of the PWS required mission aircrew to be present for mission planning, mission pre-briefs, sortie execution, and debrief and post-mission documentation. Regularly double[-]turning would not allow the offeror the ability to meet the Section 2.2 PWS requirement of being present for all briefs related to flying operations, which may overlap between sorties. For example, with up to 6 sorties per day, as stated in the Appendix B of the PWS, a contractor would need at least six crews for the potential of the schedule to require three sorties with three additional sorties needing to be launched immediately after the first three land. The [training] schedule will

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<sup>4</sup> This provision states, in relevant part, that “no certificate holder may schedule a flight crewmember, and no flight crewmember may accept an assignment, for flight time during the 24 consecutive hours preceding the scheduled completion of any flight segment without a scheduled rest period during that 24 hours of at least . . . 9 consecutive hours of rest for less than 8 hours of scheduled flight time.” 14 C.F.R. § 135.265(b)(1); see also COS at 4.

not support adequate time between sorties to double turn on a regular basis.

AR, Tab 14, SSEB Report, Aug. 26, 2019, at 28. In other words, the SSEB found that ITI's proposed reliance on consistently having its [REDACTED] aircrew fly more than one sortie per day on consecutive days posed an unacceptable level of risk and did not meet all of the requirements of the solicitation. See id.

After reviewing the SSEB's evaluation and conducting an integrated assessment of the proposals, the source selection authority (SSA) agreed with the SSEB's recommendation and concluded that Oscar Deuce's proposal presented the best overall value. The SSA also noted that 11 offers were received and that "[o]pening discussions would unlikely affect the outcome of the source selection without significant revision of their technical proposals." AR, Tab 18, Source Selection Decision Document (SSDD), Sept. 18, 2019, at 57. The SSA also agreed with the SSEB's evaluation of ITI's proposal, including the assignment of an unacceptable technical capability and technical risk rating under the staffing component, and concluded that ITI's proposal was ineligible for award because it presented "an unacceptable technical risk solution." Id. at 34, 59.

On September 20, 2019, the agency notified ITI of the award to Oscar Deuce. After a debriefing, this protest followed.

## DISCUSSION

The protester primarily argues that the agency's assignment of an unacceptable rating to its technical proposal under the staffing component was based on unstated evaluation criteria. Specifically, ITI alleges that the agency rejected its proposal to conduct sorties by relying on regularly double-turning [REDACTED] aircrew "on the sole grounds that it did not propose six or more aircrews." Protest at 26. ITI further argues that the result of the agency's evaluation was "to bar effectively any planning for double turns at all and to require that there be at least six air[crew]." Protester's Comments, Nov. 18, 2019, at 12; see also Protest at 26-27. ITI also complains that the solicitation allowed aircrews to fly two missions per day with "no guidance as to what the scheduling of flights might be or suggest[ion] that there was any limitation on dual flights per day[.]" such that "offerors were left to shoot in the dark and make a reasonable determination as to what was required." Protest at 25.

In response, the agency asserts that its evaluation was "reasonably and logically encompassed within the solicitation." MOL at 16. The agency explains that, as the record shows and contrary to the protester's allegations, "ITI's proposal was not found to be unacceptable because its approach included double[-]turning or because it did not propose six aircrew. Rather, ITI's staffing approach was determined to be unacceptable because it risked not always being able to perform the solicitation requirements." COS at 26; see also AR, Tab 14, SSEB Report, at 28. Further, the agency explains that ITI's proposal raised a number of concerns such as "inflexibility in aircrew schedules" and

“increase[d] [] risk of performance degradation because aircrews have little to no flexibility to withstand and adapt to schedule delays.” MOL at 15; see also COS at 22-26; AR, Tab 14, SSEB Report, at 28.

We have fully considered all of the parties’ arguments, including those that are in addition to or variations of those specifically discussed below, and find no basis to sustain ITI’s protest.<sup>5</sup>

In reviewing a protest challenging an agency’s evaluation, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency’s discretion. Rather, we will review the record to determine whether the agency’s evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. Computer World Servs. Corp., B-410513, B-410513.2, Dec. 31, 2014, 2015 CPD ¶ 21 at 6. Although agencies are required to identify in a solicitation all major evaluation factors, they are not required to identify all areas of each factor that might be taken into account in an evaluation, provided that the unidentified areas are reasonably related to, or encompassed by, the established factors. Northrop Grumman Sys. Corp., B-414312 et al., May 1, 2017, 2017 CPD ¶ 128 at 12. A protester’s disagreement with the agency’s judgment, without more, is insufficient to establish that the agency acted unreasonably. Vertex Aerospace, LLC, B-417065, B-417065.2, Feb. 5, 2019, 2019 CPD ¶ 75 at 8.

We find no basis on this record to object to the agency’s evaluation of ITI’s technical proposal under the staffing component. We have reviewed the solicitation and agree with the agency’s view that its evaluation was “reasonably and logically encompassed within the solicitation.” MOL at 16. As noted above, the solicitation provided that the agency would evaluate proposals based on the offeror’s understanding of and ability to

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<sup>5</sup> The protester raises various other challenges to the agency’s evaluation of its proposal under the technical, past performance, and price evaluation factors. Because we conclude that the agency reasonably found that the protester’s proposal was technically unacceptable, we also conclude that ITI is not an interested party to raise these other challenges because it would not be in line for contract award were its protest to be sustained. 4 C.F.R. § 21.0(a)(1); see Cyberdata Techs., Inc., B-411070 et al., May 1, 2015, 2015 CPD ¶ 150 at 9 (where the agency reasonably concluded that the protester’s proposal was technically unacceptable, the protester was not an interested party to raise additional challenges). Moreover, to the extent the protester’s challenges to the agency’s price evaluation are “based solely on the erroneous technical staffing evaluation[.]” Protest at 31, we conclude that such challenges fail to state a valid basis for protest in light of our discussion below. 4 C.F.R. § 21.1(c)(4) and (f); see Vectrus Sys. Corp., B-412306.2, B-412306.3, Jan. 6, 2017, 2017 CPD ¶ 37 at 12 (where the agency properly evaluated the protester’s proposal as technically unacceptable, the protester’s challenge to the agency’s price evaluation that was based on the agency’s allegedly flawed technical evaluation failed to state a valid basis for protest).

meet the requirements. While the solicitation provided estimated workload requirements for aircrew to conduct sorties, it also required aircrew to perform additional duties. RFP amend. 4 at 13; PWS at 3 (“contractor[-]provided mission aircrew shall perform mission planning, mission pre-briefs, sortie execution[,] and debrief and post-mission documentation”). Also, while the solicitation provided that “[p]ilots may fly more than one sortie per day,” it included the limitation that pilots may do so “provided they comply with duty day requirements in 14 [C.F.R.] Part 135.265.” PWS at 12; see also AR, Tab 6a, Questions and Answers, at 9; see also Protest at 26 (acknowledging that “[t]he only limit stated by the Air Force . . . was that the aircrews adhere to the 9-hours of rest regulatory requirement”).

ITI proposed to rely on regularly double-turning its [REDACTED] aircrew, such that each aircrew would consistently have to conduct more than one sortie a day on consecutive days. See AR, Tab 10, ITI Solutions Proposal, Volume II, Technical Capability, June 12, 2019, at 42-43. As a preliminary matter, the record does not support ITI’s allegation that the agency’s rejection of its proposal was based “on the sole grounds that it did not propose six or more aircrews.” Protest at 26. As the agency explains, and as the record shows, “ITI’s proposal was not found to be unacceptable because its approach included double[-]turning or because it did not propose six aircrew. Rather, ITI’s staffing approach was determined to be unacceptable because it risked not always being able to perform the solicitation requirements.” COS at 26; see also AR, Tab 14, SSEB Report, at 28.

In this regard, we note that the record shows that the agency’s evaluation was not based merely on the number of aircrew or the use of double-turning, but on the risk associated with ITI’s reliance on regularly double-turning--i.e., the extreme degree to which the protester proposed to rely on consistently having its aircrew fly more than one sortie per day on consecutive days. Specifically, the agency explains that ITI’s proposal “did not demonstrate how pilots would complete all pre[-] and post-mission requirements, meet rest requirements, and fly the required number of sorties in a dynamic and fluid environment.” COS at 26. In other words, the agency found that ITI’s proposal presented an unacceptable level of risk and did not meet all of the requirements of the solicitation, including the requirement for aircrew to receive 9 hours of rest after 7 hours of flight time and the requirement for aircrew to perform other duties in addition to conducting sorties. See AR, Tab 14, SSEB Report, at 28; AR, Tab 18, SSDD, at 34, 59; COS at 22-26; MOL at 14-15. Given these requirements that are expressly covered by the solicitation and the agency’s evaluation, we find the protester’s argument that the agency applied unstated evaluation criteria baseless.

Moreover, we find reasonable the agency’s explanations that ITI’s proposal raised other concerns such as “inflexibility in aircrew schedules” and “increase[d] [] risk of performance degradation because aircrews have little to no flexibility to withstand and adapt to schedule delays.” MOL at 15; see also COS at 22-26; AR, Tab 14, SSEB Report, at 28. We find that these concerns, which expound upon those documented in the evaluation, are directly tied to requirements of the solicitation and are reasonably

related to, or encompassed by, those requirements. See Northrop Grumman Sys. Corp., supra, at 12.

As a final matter, to the extent ITI complains that the RFP provided “no guidance as to what the scheduling of flights might be or suggest[ion] that there was any limitation on dual flights per day[,]” such that “offerors were left to shoot in the dark and make a reasonable determination as to what was required,” Protest at 25, we find that the protester is raising an untimely challenge to the terms of the solicitation. 4 C.F.R. § 21.2(a)(1); see, e.g., ASRC Fed. Data Sols., LLC, B-417655 et al., Sept. 18, 2019, 2019 CPD ¶ 325 at 7 (“[i]t 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”). We also note that, under these circumstances, the protester’s complaints about the adequacy of the solicitation seem to support, rather than refute, the agency’s ultimate conclusion that ITI’s proposal did not reflect an acceptable level of understanding of the solicitation’s requirements. See, e.g., Vectrus Sys. Corp., supra, at 9.

Overall, we conclude that the agency reasonably considered ITI’s proposed approach to meeting the solicitation’s staffing requirements, and we find no basis to question the reasonableness of the agency’s finding that ITI’s proposal was technically unacceptable for presenting an unacceptable level of risk and failing to meet the requirements.

The protest is denied.

Thomas H. Armstrong  
General Counsel