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## Decision

**Matter of:** National Capitol Contracting, LLC

**File:** B-418402.3

**Date:** March 25, 2021

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Lawrence P. Block, Esq., Elizabeth Leavy, Esq., and William T. Kirkwood, Esq., Reed Smith LLP, for the protester.

Albert B. Krachman, Esq., Blank Rome LLP, for York Telecom Corporation, the intervenor.

Brandon Dell'Aglio, Esq., Dorothy M. Guy, Esq., Virginia Pizza, Esq., and Deborah Lee, Esq., Social Security Administration, for the agency.

Jacob M. Talcott, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest challenging agency's award of a contract is denied where the agency's evaluation was reasonable and in accordance with the terms of the solicitation.

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### DECISION

National Capitol Contracting, LLC (NCC), a small business of McLean, Virginia, protests the award of a contract by the Social Security Administration (SSA), to York Telecom Corporation (Yorktel), of Eatontown, New Jersey, under request for proposals (RFP) No. 28321320R00000009 for video enterprise services integration (VESI) support services. The protester contends that the agency unreasonably evaluated the awardee's and the protester's proposals, which resulted in an improper award to the awardee.

We deny the protest.

### BACKGROUND

According to the agency, it is progressing towards a virtual environment and intends to use virtual servers to support all or most of its video infrastructure. Agency Report (AR), exh. 2, RFP at 97. To that end, the SSA issued the subject RFP on December 10, 2019, through beta.SAM.gov, as a small business set-aside and in accordance with

Federal Acquisition Regulation (FAR) parts 12 and 15.<sup>1</sup> Contracting Officer's Statement (COS) at 3. The RFP sought VESI support services and video conferencing (VTC) hardware, software, maintenance, and other services to support the agency's transition to a single enterprise solution encompassing multiple VTC technologies. *Id.* at 2. The period of performance includes a 5-year base period, two 1-year option periods, and a 6-month option to extend period, for a total of up to seven and half years. RFP at 89. The RFP provided that the SSA would award an indefinite-delivery, indefinite-quantity (IDIQ) contract to the responsible offeror whose proposal was most advantageous to the SSA, considering price and other factors. RFP at 103. The closing date for receipt of proposals was February 21, 2020. COS at 4.

The RFP provided minimum specifications for the VESI hardware sought, which included flat-panel televisions. AR, Tab 4, RFP att. 3, VESI Minimum Specifications. The solicitation also included pricing tables on which offerors were to enter a unit price for each item across each contract period. RFP at 89; AR, Tab 5, Pricing Table. The pricing tables included a variety of information about the equipment, such as the item's name and description, as well as the unit of measure. RFP at 88. As relevant here, the RFP instructed offerors to insert the name of the original equipment manufacturer (OEM) and the OEM part number associated with the item (unless that information was already present) when completing the pricing table. *Id.*

The RFP provided for the evaluation of proposals in four phases. *Id.* at 103-110. Under phase one, the SSA would evaluate proposals to determine whether offerors possessed certain required certifications and specializations. *Id.* at 93, 103. Only those proposals that received a rating of "acceptable" in phase one would proceed to phase two, the Section 508 conformance evaluation.<sup>2</sup> *Id.* at 103. The proposals with the highest overall conformance ratings in phase two would then advance to phase three, the best-value tradeoff analysis. *Id.* at 104.

In phase three, the agency would evaluate proposals under the following three non-price factors, listed in descending order of importance: experience, past performance, and technical approach. *Id.* The agency would also evaluate prices by multiplying the proposed unit price for each item by the corresponding estimated quantity listed in the pricing table and then adding the prices for the base year and all options to generate a total proposed price. *Id.* at 109. The agency would then perform a best-value tradeoff analysis wherein the non-price factors would be approximately equal to price. *Id.* The

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<sup>1</sup> The SSA awarded an IDIQ contract to NCC for video conferencing and support services (VTSS) on September 10, 2014. Protest at 4. The VTSS contract is the predecessor to the current VESI contract. COS at 2.

<sup>2</sup> This phase of the evaluation refers to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended, including agency-specific assistive technology requirements. AR, exh. 8, Technical Evaluation Panel (TEP) Report at 2. Phase two of the evaluation is not at issue here.

proposal determined to represent the best value would advance to phase four, the supply chain risk assessment.<sup>3</sup> *Id.* at 110-111.

The agency received five proposals. After completing its phase one and phase two evaluations, the agency determined that three proposals, including those of the protester and the awardee, would advance to phase three. AR, exh. 13, Revised Best-Value Determination at 1-2. Following its phase three evaluation, the SSA notified NCC on June 5 that it had identified Yorktel as the apparent successful offeror. Protest at 4. NCC requested debriefing in accordance with FAR 15.506, which the SSA provided via email on July 27. *Id.*

On August 3, NCC filed a protest with our Office challenging the SSA's evaluation of proposals and the award of the contract to Yorktel. *Id.* On August 26, the SSA notified our Office that it intended to take corrective action, consisting of reevaluating the technically acceptable proposals, assigning new evaluation ratings, and making a new award decision. COS at 18. We dismissed the protest as academic on September 1. *National Capitol Contracting, LLC, B-418402.2, Sept. 1, 2020* (unpublished decision).

On December 10, the SSA notified NCC that it had completed its corrective action and again awarded the contract to Yorktel. Protest at 5. On December 11, SSA provided NCC with a written debriefing. *Id.* The new evaluation resulted in the following ratings:

	Yorktel	NCC
Experience	Extremely Similar	Somewhat Similar
Past Performance	Exceptional	Satisfactory
Technical Approach	High Confidence	Some Confidence
Price	\$52,203,876	\$52,230,439

Protest, exh. B, Debriefing at 6. NCC filed this protest with our Office on December 21.

## DISCUSSION

The protester argues that Yorktel's proposal failed to conform to material terms of the solicitation and should have been excluded from consideration for award. NCC also raises a number of challenges to the SSA's reevaluation of the NCC proposal under the experience and technical approach factors.<sup>4</sup> As discussed below, we deny the protest.

In reviewing protests challenging the evaluation of an offeror's proposal, it is not our role to reevaluate proposals; rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accordance with the solicitation criteria and applicable procurement statutes and regulations. *Wolverine Servs. LLC,*

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<sup>3</sup> Phase four of the evaluation is not at issue here.

<sup>4</sup> Although we do not specifically address each of the protester's arguments, we have considered them and find none to be meritorious.

B-409906.3, B-409906.5, Oct. 14, 2014, 2014 CPD ¶ 325 at 3. A protester's disagreement with the agency's evaluation, without more, does not render the evaluation unreasonable. *Access Interpreting, Inc.*, B-413990, Jan. 17, 2017, 2017 CPD ¶ 24 at 3.

NCC argues that the SSA should have determined that Yorktel's proposal was "nonresponsive" because for several items on the price table, Yorktel did not provide the name of the OEM and the OEM part number. Protest at 8-9. According to NCC, this omission was material because Yorktel might have priced items that did not meet the RFP's minimum specifications. In one specific example, NCC argues that Yorktel could have proposed a television that lacked an Energy Star rating as required by RFP. *Id.* at 10.

Yorktel and the SSA argue that Yorktel's failure to include OEM names and product numbers for several items in the price table, including flat-panel televisions, did not render Yorktel's proposal noncompliant. Memorandum of Law (MOL) at 30; Intervenor's Comments at 12. Specifically, the SSA argues that the TEP properly determined from Yorktel's technical volume that it would comply with the requirements of the RFP, such as the requirement that offerors provide a television with an Energy Star rating. MOL at 30-31.

Here, the record does not support NCC's contention that the omission of the OEM names and item numbers from the price table was a material omission. Although NCC contends that the failure to include the OEM information could result in the SSA buying items that do not meet the requirements of the RFP (e.g., a television that is not Energy Star certified), the record does not indicate the SSA relied on the price table to determine whether an offeror met the technical requirements. Instead, the TEP evaluated how an offeror intended to meet the requirements of the statement of work and the minimum specifications by reviewing only the technical volume of each offeror's proposal. AR, exh. 8, TEP Report at 25-26. In other words, the TEP did not require the OEM name and item number to determine whether a proposal met the requirements of the RFP.<sup>5</sup> *See id.*

Because we find the SSA reasonably determined that the awardee's failure to furnish OEM information for certain equipment in its price table did not constitute a material omission, we need not address NCC's remaining arguments regarding the evaluation of its own proposal. Competitive prejudice is an essential element of a viable protest and there is no basis for sustaining a protest where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award. *Lockheed Martin Corp.*, B-411365.2, Aug. 26, 2015, 2015, CPD ¶ 294 at 14. Here, the protester has failed to show that it was prejudiced by the agency's evaluation of its proposal under the experience and technical approach factors.

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<sup>5</sup> Whether Yorktel will provide compliant products during the course of the contract is a matter of contract administration that our Office does not consider. 4 C.F.R. § 21.5(a); *see Knight Point Systems, LLC*, B-414802, Sept. 20, 2017, 2017 CPD ¶ 306 at 8.

In this regard, even if NCC were correct that the agency should have assigned its experience a rating of “extremely similar” and its technical approach a rating of “high confidence,” its proposal still would be lower rated than Yorktel’s under the second most important factor, past performance.<sup>6</sup> Additionally, NCC still would have a higher priced proposal than Yorktel. Under these circumstances, we see no reasonable possibility that the agency would have selected NCC’s proposal as representing the best value.

The protest is denied.

Thomas H. Armstrong  
General Counsel

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<sup>6</sup> NCC does not challenge its past performance rating.