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Decision

Matter of: SigNet Technologies, Inc.

File: B-418677

Date: July 23, 2020

Ira E. Hoffman, Esq., Butzel Long, PC, for the protester.
Colonel Patricia S. Wiegman-Lenz, Alexis J. Bernstein, Esq., Josephine Farinelli, Esq., Michael J. Farr, Esq., Laura K. Koepnick, Esq., and Andrew J. Sibley, Esq., Department of the Air Force, for the agency.
Angela H. Moon, Lois Hanshaw, Esq., and Evan C. Williams, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest asserting that agency was required to seek clarification before rejecting the protester's proposal as unacceptable is denied where the record shows that any exchanges regarding issues in the protester's proposal would have constituted discussions.
2. Protest challenging the agency's evaluation of the protester's technical proposal is dismissed where the protester abandoned its substantive challenges to the agency's evaluation of its technical proposal.

DECISION

SigNet Technologies, Inc. (SigNet), of Beltsville, Maryland, protests the award of multiple contracts under request for proposals (RFP) No. FA8730-19-R-0005, issued by the Department of the Air Force for the acquisition of physical and electronic security systems. SigNet argues that the agency should have engaged in clarifications regarding its proposal. SigNet further contends that the agency improperly evaluated its technical proposal.

We deny the protest.

BACKGROUND

On June 6, 2019, the Air Force issued the RFP under Federal Acquisition Regulation (FAR) part 15, Contracting by Negotiation, for contractors to implement physical and

electronic security systems to protect Air Force sites worldwide, known as the Force Protection Site Security System Solutions (FPS4) program. Agency Report (AR), Tab 10, RFP at 68, 155, 208.¹ The FPS4 program includes many features of cybersecurity and technology requirements. *Id.* at 72-74.

The RFP contemplated the award of multiple indefinite-delivery, indefinite-quantity (IDIQ) contracts with a 5-year ordering period (with a performance period extending an additional 3-years) and a ceiling of \$783 million for all contracts. *Id.* at 155. These contracts utilize fixed-price, fixed-price-incentive-fee, cost-plus-incentive-fee, cost-plus-fixed-fee, cost-reimbursement, and time-and-materials contract line item numbers. *Id.*

Award would be made to all qualifying offerors, which the RFP defined as a responsible source that submits a technically acceptable proposal and offers a fair and reasonable price. *Id.* at 208. Cost would not be evaluated at the IDIQ level, but would be evaluated on individual delivery orders. *Id.* at 212. Furthermore, the RFP stated that the government intended to evaluate proposals and make award without discussions, but reserved the right to engage in clarifications as described in FAR 15.306(a). *Id.* at 209.

The only evaluation factor specified in the RFP was the technical factor. *Id.* at 209. The technical factor identified four subfactors, including, as relevant here, the infrastructure subfactor.² *Id.* at 209. The technical factor required an offeror to provide a solution to a sample problem at a hypothetical Air Force base. *Id.* at 168. The agency would evaluate whether the offeror proposed an adequate solution demonstrating sufficient knowledge to satisfy the government's sample problem requirements. *Id.* at 210. As relevant to the infrastructure subfactor, the agency would assess the adequacy and thoroughness of the offeror's understanding of three elements: communications infrastructure, power infrastructure, and communications networking. *Id.* at 211. The agency would also assess the soundness and efficiency of the offeror's approach to addressing the sample problem. *Id.*

A proposal would be deemed technically acceptable if every technical subfactor were rated both: (1) acceptable quality (on an acceptable/unacceptable basis); and (2) low or moderate risk.³ *Id.* at 208. These ratings would be based on the agency's assessment of weaknesses, significant weaknesses, and deficiencies in each offeror's technical

¹ All references to the RFP herein refer to the conformed version of the RFP.

² The RFP did not identify the relative order of importance among the technical subfactors.

³ According to the RFP, an acceptable quality rating would be assigned to a proposal indicating an adequate approach and understanding of the requirements. RFP at 210. A proposal rated as low risk may contain weaknesses with little potential to cause disruption of schedule or degradation of service. *Id.* at 211. A proposal rated as moderate risk may contain a significant weakness or combination of weaknesses that might potentially cause disruption of schedule or degradation of performance. *Id.*

proposal. *Id.* at 210. As relevant here, a deficiency was defined as a combination of significant weaknesses in a proposal that increase the risk of sample problem performance to an unacceptable level. *Id.* The RFP defined a significant weakness as a flaw in the proposal that significantly increased the risk of unsuccessful performance on the sample problem. *Id.*

By the September 18 closing date, the agency received 31 proposals, including a proposal from SigNet. Contracting Officer's Statement (COS) at 4, 7, 11. As relevant to the infrastructure subfactor,⁴ the technical evaluation team (TET) rated SigNet's proposal as unacceptable quality and high risk.⁵ AR, Tab 19, Infrastructure Subfactor Evaluation at 1. The TET concluded that SigNet's proposal met the requirements of the communications infrastructure and power infrastructure elements. *Id.* at 2. However, the TET assigned a deficiency to the communications networking element. *Id.* In this regard, the agency assessed a deficiency to the communication networking element based on a combination of significant weaknesses--one each in configuration issues and documentation issues--that the agency found increased the risk of performance on the sample problem to an unacceptable level. *Id.* at 4-5. The agency did not conduct discussions or engage in clarifications with SigNet on its proposal. See Memorandum of Law (MOL) at 4.

The source selection authority (SSA) made awards to 17 qualifying offerors. AR, Tab 13, Source Selection Decision at 8. Because SigNet's proposal did not receive a rating of acceptable quality and low or moderate risk for all four technical subfactors, the SSA neither considered SigNet a qualifying offeror, nor made award to SigNet. *Id.* After timely requesting and receiving a debriefing, SigNet timely protested to our Office.

DISCUSSION

SigNet raises numerous protest grounds challenging the agency's decision not to award the firm a contract under the RFP. First, SigNet raises various arguments that the agency should have engaged in clarifications prior to making award. Second, in the remaining protest grounds, SigNet challenges the agency's evaluation of its technical proposal under the infrastructure subfactor. We have reviewed the protester's arguments and find no basis to sustain these protest grounds.

⁴ SigNet's proposal was rated as acceptable under the three other technical subfactors. AR, Tab 14, SigNet Technical Evaluation at 1, 13, 16.

⁵ An unacceptable quality rating would be assigned to a proposal that neither meets the requirements of the solicitation, nor demonstrates an adequate approach and understanding of the requirements. RFP at 210. A high risk rating would be assigned to a proposal that contains a deficiency, a significant weakness, or a combination of weaknesses which would likely cause significant disruption of schedule or degradation of performance to an unacceptable level. *Id.* at 211.

Clarifications

SigNet argues that in evaluating the communications networking element of the infrastructure subfactor, the agency should have sought clarification on various flaws identified in the protester's proposal, which SigNet contends were minor or clerical in nature. Protest at 7, 9. Specifically, SigNet believes that had the agency sought these clarifications, it would have been able to correct its proposal with minor revisions and become a qualifying offeror eligible for award of the contract. *Id.*

In response, the agency argues that it was not required to engage in clarifications. MOL at 5. The agency also states that the technical evaluation highlighted multiple significant weaknesses that would have required resolution through discussions, rather than clarifications, and that the protester did not raise challenges to all of the identified flaws. *Id.* The agency contends that clarifications offered in SigNet's protest would not have resolved the flaws identified in the agency's evaluation. *Id.* at 8, 10.

Discussions occur when an agency communicates with an offeror for the purpose of obtaining information essential to determine the acceptability of a proposal, or provides the offeror with an opportunity to revise or modify its proposal in some material respect. *IR Techs., B-414430 et al.*, June 16, 2017, 2017 CPD ¶ 162 at 12. Clarifications, on the other hand, are limited exchanges between the agency and offerors that may occur when contract award without discussions is contemplated; an agency may, but is not required to, engage in clarifications that give offerors an opportunity to clarify certain aspects of proposals or to resolve minor or clerical errors. FAR 15.306(a); *CJW-Desbuild JV, LLC, B-414219*, Mar. 17, 2017, 2017 CPD ¶ 94 at 3. Agencies have broad discretion as to whether to seek clarifications from offerors, and offerors have no automatic right to clarifications regarding proposals. *Valkyrie Enterprises, LLC, B-414516*, June 30, 2017, 2017 CPD ¶ 212 at 5. Clarifications cannot be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, or otherwise revise the proposal. *Alltech Eng'g Corp., B-414002.2*, Feb. 6, 2017, 2017 CPD ¶ 49 at 6.

Here, we agree with the agency that clarifications were not appropriate to resolve the flaws identified in SigNet's proposal. Even though SigNet argues that its flaws were minor or clerical, SigNet's proposal was deemed unacceptable because the agency assessed a deficiency based on a combination of significant weaknesses related to documentation and configuration issues. Specifically, the record shows that to become acceptable, SigNet would have needed to provide "a substantial amount of required information missing from its proposal" to remedy its insufficient documentation and to correct a non-exhaustive list of eight network configuration issues that made the design non-functional. See AR, Tab 14, SigNet Technical Evaluation at 11-13. Providing SigNet with an opportunity to correct the significant weaknesses that formed the basis of the deficiency would constitute discussions, not clarifications, because it would involve the submission of information necessary to make the proposal acceptable. *Analytic Servs., Inc., B-405737*, Dec. 28, 2011, 2012 CPD ¶ 16 at 12.

In addition, the RFP advised that the agency reserved the right to make award without discussions, RFP at 209, and the agency in fact did not conduct discussions with the offerors. MOL at 5. An agency is not required to provide an opportunity for discussions (or clarifications) where, as here, the solicitation expressly advised that the agency intended to make award without discussions. See *SigNet Techs., Inc.*, B-417335, B-417335.2, May 28, 2019, 2019 CPD ¶ 202 at 4-5. Moreover, an agency's discretion to hold discussions or engage in clarifications is quite broad and is not generally reviewed by this Office. *Booz Allen Hamilton Inc.*, B-405993, *et al.*, Jan. 19, 2012, 2012 CPD ¶ 30 at 13. Here, SigNet fails to establish that the agency's decision not to engage in clarifications violated procurement law or regulation. As a result, we deny this protest ground.

Abandoned Issues

SigNet also raises nine arguments challenging the agency's evaluation of SigNet's technical proposal. Protest at 8-10. The agency responded to each of SigNet's protest grounds and, in some instances, detailed other significant proposal flaws that were not challenged in SigNet's original protest. COS at 25-40; MOL at 11-24. The protester's comments on each remaining protest ground, however, merely restate its original protest grounds and lack any specific explanation of how the agency's justification for its evaluation is unreasonable. Comments at 9-12. We conclude, therefore, that the protester has abandoned these issues. We discuss a representative example below.

The protester argues that the agency's evaluation was flawed because it overlooked information that the protester provided in its proposal. See Protest at 7. Specifically, SigNet argues that it clearly marked internet protocol (IP) addresses in its proposal, which would have resolved network configuration issues, if the agency had seen the IP addresses. *Id.* The agency stated in response that there were other significant reasons for why it found network configuration issues in SigNet's proposal. COS at 24; MOL at 10. In addition, the agency noted that although it did find an IP address in SigNet proposal, the IP address was not properly programmed into the network; thus, SigNet's argument did not address the network configuration issues. *Id.*; *id.* The protester responded to the agency by simply restating, nearly verbatim, its initial argument that the agency failed to read SigNet's IP addresses marked in its proposal. See Comments at 9; *cf.* Protest at 7. SigNet's response neither rebutted the agency's argument, nor addressed the agency's responses that the network configuration issues would have persisted, due to other significant errors, even if the agency had noted the IP address information in the proposal.

In responding to an agency report, protesters are required to provide a substantive response to the arguments advanced by the agency. *enrGies, Inc.*, B-408609.9, May 21, 2014, 2014 CPD ¶ 158 at 4. Where a protester merely references earlier arguments advanced in an initial protest without providing a substantive response to the agency's position, our Office will dismiss the referenced allegations as abandoned. *CRESTRAT JV, LLC*, B-415716.35, B-415716.36, Sept. 11, 2019, 2019 CPD ¶ 401 at 8. Here, since the protester's responses to the explanations set forth in the agency's

report provide our Office with no basis to conclude that the agency's position with respect to the issues in question are unreasonable, we dismiss all such protest grounds as abandoned. See 4 C.F.R. § 21.3(i)(3).

The protest is denied.

Thomas H. Armstrong
General Counsel