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# Decision

**Matter of:** CSRA LLC

**File:** B-418903.9

**Date:** February 3, 2022

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## DIGEST

Protest arguing that, as part of corrective action, competitor should be precluded from further participation in an acquisition based on a misrepresentation in an earlier version of its proposal is denied, where agency investigated the entirety of the circumstances and determined that permitting the firm to continue participating in the acquisition was the appropriate course of action; agencies are afforded considerable discretion in determining what corrective action is appropriate to remedy a flaw in the agency's procurement process.

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## DECISION

CSRA, LLC, of Falls Church, Virginia, protests certain actions taken by the Department of State in connection with request for proposals (RFP) No. 19AQMM20R0032, issued to acquire cybersecurity support services for the agency's directorate of cyber and technology security. CSRA alleges that another competitor for the requirement, Northrop Grumman Systems Corporation, of McLean, Virginia, should be excluded from the competition because, according to CSRA, Northrop Grumman engaged in certain actions that merit its exclusion, and also because Northrop Grumman has a an organizational conflict of interest (OCI) that cannot be mitigated.

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

## BACKGROUND

This is CSRA's fourth protest filed in connection with this acquisition, and the latest protest raises two relatively narrow issues for our consideration. Briefly, pursuant to the RFP, the agency seeks to issue a task order for the solicited services principally on a fixed-price labor-hours basis (with ancillary fixed-price and cost-reimbursement line items) on a best-value tradeoff basis, considering price and several non-price factors.<sup>1</sup> Neither the basis for award of the task order, nor the agency's evaluation findings to date are germane to the current protest. Consequently, we need not detail either the RFP's basis for proposal evaluation and award, or the results of the agency's evaluation activities thus far. The sole question in this protest is whether the agency has reasonably permitted Northrop Grumman's continued participation in the acquisition.

In June 2020, after soliciting and evaluating proposals, the agency issued a task order to Northrop Grumman. In the wake of that selection decision, CSRA filed a protest, alleging that the agency had unreasonably failed to engage in adequate discussions, misevaluated proposals, and made an unreasonable source selection decision. In response to that protest, the agency advised our Office that it would take corrective action by engaging in discussions, soliciting, obtaining and evaluating revised proposals, and making a new source selection decision. After being advised of the agency's proposed corrective action, we dismissed CSRA's protest as academic. *CSRA, LLC*, B-418903, B-418903.3, July 21, 2020 (unpublished decision).<sup>2</sup>

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<sup>1</sup> The RFP contemplates the issuance of a task order for a 2-month transition period, followed by a base year and four 1-year option periods to perform the requirement. Agency Report (AR) exh. 6, Conformed RFP, at 20. Competition for the requirement was confined to firms holding indefinite-delivery, indefinite-quantity contracts under the National Institutes of Health Information Technology Acquisition and Assessment Center's Governmentwide Acquisition Contract Chief Information Officer-Solutions and Partners 3, Task Area 7 - Critical Infrastructure Protection and Information Assurance multiple-award contracting program. *Id.* at 18. The agency estimates that the value of the requirement is approximately \$395 million, although submitted prices are lower than the agency's estimate. AR, exh. 21, Third Source Selection Decision, at 6, 35. By either measure, the value of the requirement exceeds \$10 million. Accordingly, our Office has jurisdiction to consider the protest. 41 U.S.C. § 4106(f).

<sup>2</sup> A second firm, ManTech Advanced Systems International, Inc., also filed a protest in the wake of the agency's June 2020 source selection, arguing that Northrop Grumman had an organizational conflict of interest; that the agency failed to engage in adequate discussions; and that the agency misevaluated proposals and made an unreasonable source selection decision. We dismissed that protest as well after the agency advised our Office of its proposed corrective action. *ManTech Advanced Systems International, Inc.*, B-418903.2, July 21, 2020 (unpublished decision).

Thereafter, in May 2021, after amending the RFP, engaging in discussions and soliciting, obtaining, and evaluating revised proposals, the agency again selected Northrop Grumman for issuance of the task order. CSRA filed its second protest challenging the agency's selection decision, arguing again that the agency failed to engage in adequate discussions, misevaluated proposals and made an unreasonable source selection decision. In response to CSRA's second protest, the agency again advised our Office that it intended to take corrective action by engaging in further discussions; soliciting, obtaining, and evaluating revised proposals; and making a new source selection decision. We dismissed CSRA's second protest as academic based on the agency's proposed corrective action.<sup>3</sup> *CSRA, LLC*, B-418903.4, June 1, 2021 (unpublished decision).

Thereafter, the agency again engaged in discussions and solicited, obtained and evaluated revised proposals from CSRA and Northrop Grumman in June 2021. After concluding these activities, the agency made award to Northrop Grumman for a third time in August 2021. CSRA filed its third protest in response to the agency's third selection decision. At this point, the agency elected to file a report in response to that protest, and after reviewing the Northrop Grumman's proposal, CSRA raised a supplemental protest allegation relating to the availability of Northrop Grumman's key personnel. Specifically, CSRA argued that three of Northrop Grumman's proposed key personnel had left before submission of final proposals in June 2021, but that Northrop Grumman failed to inform the agency of that fact, or to propose alternate key personnel in light of the circumstances.

In response to that allegation, the agency advised our Office that it had made an initial confirmation of CSRA's allegation. The agency represented that it would conduct an investigation into the matter, determine the appropriate course of action and, if appropriate, reopen negotiations, solicit, obtain and evaluate revised proposals, and make a new selection decision in light of its investigation findings. We dismissed CSRA's third protest based on the agency's proposed corrective action. *CSRA, LLC*, B-418903.6, *et al.*, Oct. 27, 2021 (unpublished decision).

After we dismissed CSRA's third protest, the agency investigated the availability of the three key personnel, asking Northrop Grumman to explain the circumstances surrounding these individuals. In response, Northrop Grumman advised the agency that all three individuals were still available to perform the requirement, but that it had neglected to update its proposal in June to reflect changes to the employment status of the three individuals in question. The agency concluded that Northrop Grumman's

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<sup>3</sup> The agency's second corrective action effort was confined to conducting discussions and soliciting and obtaining revised proposals from CSRA and Northrop Grumman. ManTech, the other firm protesting the agency's first source selection, was not included in the agency's second round of corrective action because the agency concluded that it had properly eliminated ManTech from the competition at the conclusion of the second source selection decision, and ManTech did not protest that decision. See AR, exh. 21, Third Source Selection Decision, at 5.

explanation was satisfactory, and decided to reopen discussions and solicit revised proposals from CSRA and Northrop Grumman. After receiving its discussions letter, CSRA filed the current protest, arguing that the agency should exclude Northrop Grumman from competing further for the requirement.

## DISCUSSION

CSRA argues that the agency should exclude Northrop Grumman from further participation because it misrepresented the availability of three of its key personnel when it submitted its June 2021 proposal revision. As noted, in its last protest, CSRA argued that the three individuals had all left Northrop Grumman (or one of Northrop Grumman's subcontractors) prior to submission of the June 2021 proposal revision, and that Northrop Grumman failed to inform the agency of this fact, and to propose alternate key personnel in light of that development. CSRA argues that the integrity of the procurement process demands that Northrop Grumman be excluded from further participation in light of its actions.

We find no merit to CSRA's protest. Agencies have broad discretion to take corrective action where the agency determines that such action is necessary to ensure a fair and impartial competition. *XYZ Corporation*, B-413243.2, Oct 18, 2016, 2016 CPD ¶ 296 at 3, 7. The details of implementing corrective action are within the sound discretion and judgment of the contracting agency, and we will not object to any particular corrective action, so long as it is appropriate to remedy the concern that caused the agency to take corrective action. *Id.* Moreover, our review is generally limited to whether the agency's corrective action is appropriate to remedy the flaw which the agency believes exists in its procurement process, not whether the agency's corrective action remedies the flaws alleged in an earlier protest where, as here, no decision on the merits was issued by our Office. *Id.*

As noted, the agency promptly investigated the availability of the three key personnel after CSRA made its original protest allegation and the agency had a chance to initially verify CSRA's contention. In response to the agency's inquiry (sent one day after we dismissed CSRA's last protest), Northrop Grumman provided the agency with an explanation of its actions. Northrop Grumman specifically conceded that it had erred in failing to update the resumes of the three individuals at issue, and explained that it had confined the revisions to its June 2021 proposal submission to providing responses to discussions questions, without revising any other aspect of its proposal. Northrop Grumman went on to explain its actions, as well as the current situation, as follows:

The team revised those elements of the proposal necessary to address the questions, which were reflected in the redline document that Peraton<sup>4</sup> submitted. However, they did not update the personnel portions. We offer

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<sup>4</sup> During the course of this acquisition, Peraton, Inc. acquired the Federal Information Technology business unit of Northrop Grumman, the business entity originally submitting the proposal for this requirement.

this as an explanation, not as an excuse. The team should have reviewed and updated any aspect of the proposal requiring revision at resubmit, including the employment status and resumes of its bid personnel. Below, we provide a summary timeline related to the status of the three individuals. As you know, this solicitation has now pended for more than 19 months, and it is inevitable in a procurement of this duration that some changes would have occurred in the employment circumstances of bid personnel. Again, although the candidates' employers changed during the pendency of this procurement, their commitment to DSCM [the diplomatic security cyber mission requirement being solicited] remains.

AR, exh. 24, NG Explanation, at 1.

Consistent with this explanation, the record also shows that Northrop Grumman submitted a proposal revision in response to the agency's latest reopening of the acquisition that includes current resumes and updated, signed letters of commitment from all three of the individuals in question. AR, exh. 30, Northrop Grumman Revised Technical Proposal, Nov. 16, 2021, at pdf 61, 69, 75, 83, 87, 90.

In sum, the record shows that Northrop Grumman appears to have neglected to update the resumes and letters of commitment for the three key personnel at the time it submitted its June 2021 proposal revision. Nonetheless, in response to the agency's inquiry, Northrop Grumman promptly provided an explanation for its actions; accepted responsibility for its failure in June; and provided information to demonstrate that the three key personnel identified by CSRA remain committed to perform the solicited requirement.

CSRA nonetheless argues that because of Northrop Grumman's earlier failure to keep the agency apprised of the availability and precise employment posture of the three key personnel, it should be excluded from further participation in the acquisition. We decline to make that recommendation here.

In some cases, we have recommended that an offeror be excluded from further participation in an acquisition. See *e.g. Insight Technology Solutions, Inc.*, B-420133.2, *et al.*, Dec. 20, 2021, 2022 CPD ¶ 13 at 14 (sustaining the protest and recommending exclusion of an offeror where firm affirmatively misrepresented that its proposed project operations manager had experience exceeding the minimum required for the position, when in fact, the individual in question did not possess even the minimum required years of experience); *Patricio Enterprises, Inc.*, B-412738, B-412738.2, May 26, 2016, 2016 CPD ¶ 145 at 15 (sustaining the protest and recommending exclusion of the awardee from competition where the awardee made material misrepresentations that the awardee had signed offer letters in place for certain proposed personnel despite never having provided such letters to those individuals).

In other instances, we have declined to recommend that a firm be excluded from participation in an acquisition based on a proposal misrepresentation. See *e.g. Johnson Controls Sec. Sys.*, B-296490, B-296490.2, Aug. 29, 2005, 2007 CPD ¶ 102 at

11-12 (sustaining the protest but not recommending exclusion of the awardee from the competition where the awardee made material misrepresentations regarding arrangements for its personnel to receive mandatory training and certifications prior to award); *CourtSmart Digital Sys., Inc.*, B-292995.2, B-292995.3, Feb. 13, 2004, 2004 CPD ¶ 79 at 6, 13-14 (sustaining the protest but not recommending exclusion of the awardee from competition where the record did not clearly indicate that the awardee's misrepresentation that a proposed item was on the federal supply schedule was intentional).

Here, the agency investigated the matter, considered the totality of the facts, and concluded that exclusion of Northrop Grumman is not an appropriate course of corrective action in these circumstances. Based on its deliberations, the agency concluded that its proposed course of corrective action would remedy the flaws apparent in its earlier selection decision and allow the offerors a fair opportunity to compete for its requirement.

As noted, the details of an agency's corrective action are largely matters committed to the sound discretion and judgment of the contracting agency, and we will not object to any particular corrective action, provided it remedies the concern that caused the agency to take corrective action. *XYZ Corporation, supra*. Our review is limited to considering whether the agency's corrective action is appropriate to remedy the flaw which the agency believes exists in its acquisition. *Id.*

Here, the record shows that, notwithstanding Northrop Grumman's earlier failure to keep the agency apprised of the ongoing employment status of its three key personnel, all three individuals remain committed to joining the Northrop Grumman team should it succeed in this competition. We also note that eliminating Northrop Grumman from the competition at this juncture would compel the agency to negotiate the task order exclusively with CSRA. In these circumstances, we have no basis to object to the agency's decision to permit Northrop Grumman to continue participating in the competition. We therefore deny this aspect of CSRA's protest.

As a final matter, CSRA argues that Northrop Grumman has an unmitigatable organizational conflict of interest (OCI) that should preclude the firm from being issued the task order. We dismiss this aspect of CSRA's protest as premature.

As noted, the agency solicited revised proposals from the offerors, and among other things, Northrop Grumman submitted a revised OCI volume of its proposal that the agency has yet to evaluate. See Agency Response to Supplemental Document Request at 2. In these circumstances, we decline to consider the merits of this aspect of CSRA's protest. The agency could determine that Northrop Grumman has an OCI that precludes issuing the task order to that firm, in which case consideration of this issue would have no practical consequence. Alternatively, the agency could conclude that Northrop Grumman has some residual OCI and elect to waive the matter. See e.g. *Steel Point Solutions, LLC*, B-419709.3, Dec. 21, 2021, 2022 CPD ¶ 14. In those circumstances, our views regarding whether Northrop Grumman may have an OCI

would largely be immaterial. Or, finally, the agency could determine that Northrop Grumman does not have an OCI and issue the task order to the firm, at which point the issue potentially would be ripe for our consideration. However, we decline to consider the issue on the merits at this juncture.<sup>5</sup>

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

Edda Emmanuelli Perez  
General Counsel

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<sup>5</sup> CSRA also suggests that the agency could not properly find Northrop Grumman responsible in light of its failure to inform the agency in June 2021 of the employment status of its proposed key personnel. For the same reasons outlined above relating to CSRA's OCI allegation, any consideration of this argument at this time is premature, inasmuch as the agency has not selected Northrop Grumman for the task order or made a responsibility determination.