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# Decision

**Matter of:** Metson Marine Services, Inc.

**File:** B-419114.2; B-419114.3

**Date:** January 26, 2021

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Christine Milne, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest that the agency unreasonably evaluated the awardee's proposal is denied where the record shows that the evaluation was consistent with the solicitation's terms and conditions, as well as applicable procurement statutes and regulations.

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## DECISION

Metson Marine Services, Inc., a small business of Ventura, California, protests the award of a contract to Pacific Maritime Group, Inc., a small business of San Diego, California, under request for proposals (RFP) N32205-20-R-4127, issued by the Department of the Navy, Military Sealift Command, for one passenger vessel to provide support for training exercises. The protester alleges that the agency unreasonably evaluated the awardee's proposal.

We deny the protest.

## BACKGROUND

On July 20, 2020, the agency issued the RFP pursuant to Federal Acquisition Regulation (FAR) part 12 and subpart 13.5 for one United States flag, uninspected, passenger vessel to provide support for training exercises at and around Naval Base Point Loma in San Diego, California. Agency Report (AR), Tab 5, RFP, Customized Portion at 24-25; Tab 6, RFP, Standard Portion at 36; Tab 4, Acquisition Strategy

at 16-17.<sup>1</sup> The RFP contemplated the award of a fixed-price contract to be performed over a 1-year base period and two 1-year option periods. AR, Tab 4, Acquisition Strategy at 19-20. Award was to be made on a lowest-price, technically acceptable basis considering four factors: critical submission data, technical, past performance, and price. AR, Tab 6, Standard Portion at 167-168. The critical submission data, technical and past performance factors would be evaluated on an acceptable/unacceptable basis. *Id.* at 171.

Under the technical factor, the solicitation required 17 minimum vessel characteristics, seven of which are relevant here. AR, Tab 5, RFP, Customized Portion at 25-28. The RFP required that the vessel have the endurance to support at sea operations for up to five days without resupply; messing and berthing for 10 passengers at sea for five days; and a minimum deck space of 1,700 square feet. *Id.* The solicitation also required the vessel be certified to transport certain levels of explosives to be used for such activities as underwater detonations and salvage operations. *Id.* The solicitation further required that the vessel provide a minimum of 500 gallons of potable water and an additional 250 gallons of fresh water daily; be capable of a single to three-point mooring in water depths of 180 to 200 feet; and be able to perform at sea transfer of personnel and cargo alongside or astern. *Id.*

The solicitation explained that offerors must submit “[a] technical description of the items being offered in sufficient detail to evaluate compliance with (or acknowledgement of, as appropriate) the requirements in the solicitation. This may include product literature, or other documents, if necessary.” AR, Tab 6, Standard Portion at 154. An offer would be evaluated based on the technical capability of the vessels proposed. *Id.* at 167. Separately, the RFP required each offeror to propose an alternate primary vessel and that proposals must provide the name, flag state, certificate of inspection or certificate of documentation, and complete description of the alternate vessel. AR, Tab 5, RFP, Customized Portion at 30.

The agency received three proposals in response to the solicitation by the August 3 closing date and, after an evaluation, all three were included in the competitive range. AR, Tab 1, Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 4. On August 6, the agency opened discussions to allow offerors to make revisions and correct deficiencies, and the agency received final proposal revisions from all three offerors. *Id.*

The agency found Pacific’s proposal to be the lowest-priced, technically acceptable offer and awarded the contract to Pacific on September 2 for \$3,292,576.63. *Id.*; AR, Tab 3, Abstract of Offers at 12. On September 10, Metson filed its first protest, alleging that the vessel proposed by Pacific, the *DM Tapper*, did not meet the minimum solicitation requirements. The agency elected to take corrective action by suspending

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<sup>1</sup> The agency report exhibits are contained within one Adobe pdf, and page citations are to the pdf page numbers.

the award, reopening discussions with offerors in the competitive range, reevaluating proposals, and making a new source selection decision. Consequently, GAO dismissed the protest as academic. *Metson Marine Services, Inc.*, B-419114, Sep. 18, 2020 (unpublished decision) at 1. After additional discussions and an evaluation, the agency affirmed award to Pacific on October 5. This protest followed.

## DISCUSSION

Metson raises multiple challenges to the evaluation of the awardee's proposal. The protester alleges that the vessel proposed by Pacific fails to meet 7 of the 17 required minimum vessel characteristics, and that Pacific does not possess an alternate primary vessel.<sup>2</sup> Protest at 3. We note at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *MacAulay-Brown, Inc.*, B-417205, B-417205.2, Mar. 27, 2019, 2019 CPD ¶ 129 at 3. For the reasons below, we find that we have no basis on which to sustain the protest.

### Deck Space

Metson notes that the *DM Tapper's* publicly available specification sheet lists deck space of 1,080 square feet, Comments at 2, and a naval architecture firm engaged by the protester concluded that the vessel had a total clear deck space of 1,359 square feet. Protest, attach. 1, *DM Tapper* Loading Verification. As a result, Metson argues that Pacific's vessel cannot meet the minimum deck space requirement of 1,700 square feet. Protest at 3.

The agency responds that the solicitation did not require offerors to demonstrate the capability of their proposed vessels to meet requirements, for example through drawings or a pre-award inspection. COS/MOL at 5. The solicitation only required that a proposal detail or acknowledge compliance with the requirement criteria. *Id.* The agency points out that Pacific's final revised proposal stated that it had measured all of

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<sup>2</sup> In its initial protest, Metson also challenged the *DM Tapper's* ability to meet the minimum requirements related to mooring, explosive storage, and at sea transfer of personnel and cargo. Protest at 3. The agency provided a detailed response to these allegations in the agency report. COS/MOL at 5-7. Metson's comments on the agency report provides no substantive reply to these responses. Where, as here, an agency provides a detailed response to a protester's challenges and the protester fails to rebut or otherwise substantively address the agency's responses in its comments, the protester provides us with no basis to conclude that the agency's position with respect to the issues in question is unreasonable or improper, and we therefore find these protest grounds abandoned and do not consider them further. See 4 C.F.R. § 21.3(i)(3); *Netizen Corp.*, B-418281, B-418281.2, Feb. 21, 2020, 2020 CPD ¶ 85 at 4.

the deck space aboard its vessel and it reached a total of [DELETED] square feet, including the main deck, the main deck forward, and the upper deck. AR, Tab 14, Pacific's Second Final Revised Technical Proposal at 208. In addition, Pacific's initial proposal stated that its vessel met all of the requirements listed with respect to deck space. AR, Tab 12, Pacific's Initial Technical Proposal at 201. Pacific also provided general arrangement drawings to support these claims though it was not required to do so. Supp. AR, Tab 38, *DM Tapper* Arrangement Diagram at 16. Lastly, Pacific clarified during discussions that the specification sheet referenced by Metson was generated long ago and was not meant to set out an exact measurement of the entire deck space. AR, Tab 14, Pacific's Second Final Revised Technical Proposal at 208.

Metson argues that the agency should not have taken the information provided by Pacific at face value--and should have questioned the "propriety" of including the main deck forward and the upper deck in calculating total loading deck space--because neither of these areas is a loading deck. Comments at 2. Metson further argues that it used a senior level architect to review the estimate of Pacific's claimed deck space, and that the expertise of the analysis should create doubt about the accuracy of the deck space claimed. *Id.* at 3. Metson also contends that the agency unreasonably evaluated Pacific's proposal as acceptable. Specifically, the protester contends that the *DM Tapper's* specification sheet contradicts the claims in Pacific's proposal; Pacific has not explained how the main deck forward and the upper deck can be used to support equipment, dive salvage operations, and other operations; and therefore these areas are improperly considered as main deck space. *Id.* at 3-4. Finally, Metson argues that Pacific's claims about the *DM Tapper* are at odds with the naval architect for the firm that built the vessel; the protester asserts that the architect provided a diagram drawing of the vessel to Metson and confirmed with the protester in an email that the usable deck space is less than 1,700 square feet. Supp. Comments at 5; Comments, attach. Email from Gulf Craft, LLC to Metson Marine, November 16, 2020.

On this record we do not find the agency's evaluation unreasonable. The agency reviewed the information provided by Pacific and confirmed that Pacific demonstrated compliance with the minimum deck space requirement based on the information given during discussions and the claims made in its proposal. The solicitation did not require the agency to verify any claims made in Pacific's proposal, and the agency is not required to take into account the protester's estimate or the information provided by the vessel's builder. Further, the solicitation does not require that deck space be limited to only the main deck space or "usable" deck space, as the protester asserts. The solicitation simply calls for a minimum deck space of 1,700 square feet. Thus, we think the agency provided a reasonable explanation for finding that the *DM Tapper* met the minimum deck space requirement based on the information contained in Pacific's proposal and, accordingly, we have no basis to question the reasonableness of the agency's evaluation. See *The COGAR Group, Ltd.*, B-413004, B-413004.3, B-413004.4, July 22, 2016, 2016 CPD ¶ 189.

## Water Production

The protester also argues that the *DM Tapper* can only provide a maximum of 600 gallons of potable water per day. Protest at 3. The agency responds that Pacific stated in its proposal that its vessel can store [DELETED] gallons of potable water, make an additional [DELETED] gallons of potable water a day, and possesses a [DELETED] gallon non-potable water tank. COS/MOL at 8; AR, Tab 12, Pacific's Initial Technical Proposal at 204. The protester counters that, based on the *DM Tapper's* specification sheet, the vessel can hold a maximum of 600 gallons of potable water a day and therefore cannot possibly meet the solicitation requirement. Comments at 4. The protester further argues that the vessel's inability to produce and carry the water required makes it impossible for it to have the necessary endurance to go five days at sea without resupply. Protest at 3; Comments at 4-5.

Although the specification sheet provides that the *DM Tapper* can hold a maximum of 600 gallons, the record shows that Pacific communicated to the agency in its final revised proposal that the specification sheet is old and Pacific supplemented the sheet with current information. AR, Tab 14, Pacific's Second Final Revised Technical Proposal at 208. Pacific's proposal stated, as outlined above in the agency's response, that it met the water production requirements as its vessel can store [DELETED] gallons of potable water, make an additional [DELETED] gallons of potable water a day, and possesses a [DELETED] gallon non-potable water tank. Therefore, Pacific's proposal provided a reasonable basis for the agency to conclude that Pacific met the requirements based on the solicitation's evaluation criteria. We thus have no basis to question the agency's evaluation.

Based solely on its allegation that the *DM Tapper* could not meet the water production requirement, Metson also objected to the vessel's ability to meet the endurance requirement. Since we have found the agency had a reasonable basis upon which to conclude the *DM Tapper* met the water production requirement, the protester's allegation that the vessel cannot meet the endurance requirement lacks a valid basis and we need not consider it further. 4 C.F.R. § 21.1(c)(4) and (f); *Midwest Tube Fabricators, Inc.*, B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3.

## Alternate Vessel

In its protest, Metson further argues that Pacific does not have an alternate primary vessel. Protest at 3. The agency disagrees, and notes that Pacific identified an alternate vessel in its final revised proposal, and provided its name, flag state, and certificate of documentation, as required. COS/MOL at 5; AR, Tab 14, Pacific's Second Final Revised Technical Proposal at 208-210. In its comments, Metson acknowledges that Pacific provided information on an alternate vessel in its final revised proposal, but complains that the agency did not supply sufficient documentation in the agency report for Metson to verify that the vessel meets the solicitation requirements. Comments at 4.

The protester's sole allegation in its protest about Pacific's alternate vessel was whether Pacific provided an alternate vessel, not whether said vessel was acceptable. The record shows that Pacific provided an alternate vessel in its revised proposal, and therefore the agency had a reasonable basis to conclude that Pacific met the requirement to provide an alternate vessel. The agency is not required to produce documentation in its response to our Office to assure the protester that the vessel was also acceptable, when the protester's objection was limited to an assertion that no vessel was identified. As a result, we have no basis to consider this challenge further.

### Messing and Berthing

In its supplemental protest, Metson argues, based on a copy of the *DM Tapper's* outboard profile drawing that it received on November 17 in an email from the vessel's builder, that the vessel does not have sufficient messing and berthing to meet the solicitation's requirements. Comments at 5; Supplemental Comments at 4.

As noted above, the solicitation required that the vessel have berthing for 10 passengers at sea for five days. AR, Tab 5, RFP, Customized Portion at 25. Pacific's proposal provides that the *DM Tapper* is equipped with berthing for [DELETED] passengers for up to [DELETED] at sea.<sup>3</sup> AR, Revised Tab 12, Pacific Initial Technical Proposal at 2, 4. The record shows that the agency reviewed Pacific's proposal and concluded that the firm's vessel met this minimum requirement. AR, Revised Tab 26, Technical Evaluation at 17. Contrary to Metson's position, the solicitation did not require the agency to verify the claims made in Pacific's proposal. Further, as previously stated, the agency is not required to take into account the protester's estimate or the information provided by the vessel's builder. Finally, faced with the plain language of Pacific's proposal, Metson now complains that its vessel did not provide berthing for passengers and crew. Again, the solicitation's requirement was only that vessels have berthing for 10 passengers. Metson has given us no basis to question the agency's conclusion that Pacific's proposal met this requirement.

The protest is denied.

Thomas H. Armstrong  
General Counsel

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<sup>3</sup> The *DM Tapper's* specification sheet, relied on by Metson for much of its protest, also states that it can provide messing and berthing for 18 passengers. Protest, *DM Tapper* Specification Sheet at 6.