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## Decision

**Matter of:** Soft Tech Consulting, Inc.

**File:** B-419488; B-419488.2; B-419488.3

**Date:** March 22, 2021

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Colonel Patricia S. Wiegman-Lenz, Major Alissa J. Schriber, Alexis J. Bernstein, Esq., and Matthew W. Haynes, Esq., Department of the Air Force, for the agency.

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### DIGEST

Protest challenging the exclusion of protester's proposal from the competitive range is denied where record shows that the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria.

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### DECISION

Soft Tech Consulting, Inc., a woman-owned small business of Chantilly, Virginia, protests the elimination of its proposal from the competitive range under request for proposals (RFP) No. 342275, issued by the United States Special Operations Command (USSOCOM), for information technology services. The protester argues that the agency unreasonably evaluated its proposal and improperly eliminated the protester from the competitive range.

We deny the protest.

### BACKGROUND

The solicitation, issued on October 2, 2020, under the procedures of the Federal Acquisition Regulation subpart 16.5 to holders of the Department of the Army's Computer Hardware Enterprise Software and Solutions (CHES) Information Technology Enterprise Solutions-3 Services (ITES-3S) governmentwide multiple-award, indefinite-delivery, indefinite-quantity (IDIQ) contracts, contemplated the issuance of a task order to provide Enterprise Knowledge Management (EKM) operations support

services<sup>1</sup> in multiple locations within USSOCOM. Agency Report (AR), Tab 5, RFP at 1-2. The solicitation advised that the task order would be performed over a 13-month base period with four 1-year option periods. *Id.* at 6. The solicitation was amended seven times; as relevant here, the final amended solicitation included instructions to offerors and a statement of work (SOW). Memorandum of Law (MOL) at 2.

The solicitation provided for award on a best-value tradeoff basis, considering a proposal's task order management plan and its task order price plan. RFP at 15; MOL at 2. The solicitation's instructions required offerors to submit proposals in two volumes, with the task order management plan in the first volume and the pricing plan in the second volume. RFP at 6-7. The task order management plan was to be evaluated under three subfactors: transition plan, staffing plan, and issue management and reporting. *Id.* at 7-9.

As relevant here, under the transition plan subfactor, the solicitation required the following:

2.1.3: Describe the processes, policies, and tools provided to employees to facilitate maintenance of continuity books during the period of performance, and task hand-over at the end of the period of performance. Describe processes and resources applied at the end of the period of performance to support workforce stability, employee off-boarding/transfer, and contract close-out, as stipulated in Section 6.3 of the SOW.

RFP at 8. The solicitation stated that this subfactor would be evaluated in the following manner:

3.1.3: The Government will evaluate the degree to which described processes, policies, and resources support stability during a transition out, at the end of the period of performance. A solution that enables hand-over of ongoing tasks to the follow-on effort with minimized need for overlap of personnel may be more favorably evaluated. A solution that enables workforce retention and stability at the end of the period of performance may also be favorably evaluated.

*Id.* at 10.

The solicitation informed offerors that a proposal that "does not meet requirements of the solicitation, and thus, contains one or more deficiencies" would be rated unacceptable; that an unacceptable rating on any technical subfactor submitted under

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<sup>1</sup> The solicitation explains that these EKM services are intended to facilitate effective organizational decision-making, and it defines these operations as "the integration of people, processes, and technology, to facilitate the exchange of operationally relevant information and expertise to increase organization performance." RFP at 2.

volume one of an offeror's proposal would render the entire proposal unawardable; and that a proposal with this rating would be eliminated from the competition. RFP at 9. The solicitation further cautioned that proposals "that simply restate the Government's requirement will be rated unacceptable." *Id.*

Soft Tech submitted a proposal on the November 2, 2020 due date. A technical evaluation team and source selection evaluation board evaluated Soft Tech's proposal and assigned it a deficiency under the transition plan subfactor for failing to "describe the processes, policies, and tools provided to employees to facilitate maintenance of continuity books during the period of performance." AR, Tab 8, Technical Evaluation Team Consensus Report at 1; AR, Tab 9, Source Selection Evaluation Board Report at 50. The evaluators concluded that the proposal's "brief[] mentions" of continuity books were insufficient to meet the solicitation requirements, and they noted that the protester "simply reiterates the government[']s requirement . . . but doesn't actually tell us what the processes, policies, and tools provided to employees to facilitate maintenance of continuity books [are]. This is a material failure." *Id.*

The evaluators also assessed weaknesses under the transition plan subfactor and the staffing plan subfactor, and a significant weakness under the issue management and reporting subfactor. AR, Tab 8, Technical Evaluation Team Consensus Report at 1-2. The protester's proposal was rated acceptable under the staffing plan subfactor, marginal under the issue management and reporting subfactor, and unacceptable under the technical subfactor. Contracting Officer's Statement at 6. In its competitive range determination, the agency concluded that the unacceptable rating under the transition plan subfactor made the proposal ineligible for award. *Id.*; AR, Tab 10, Competitive Range Determination at 132-134.

On December 18, the contracting officer notified the protester that its proposal had been excluded from the competition. MOL at 6. The same day, the protester requested a pre-award debriefing, which the agency denied. *Id.* On December 23, this protest followed.<sup>2</sup>

## DISCUSSION

Soft Tech challenges various aspects of the agency's technical evaluation and alleges that the decision to exclude Soft Tech's proposal from the competitive range was unreasonable. We have reviewed all of Soft Tech's assertions and find no basis to sustain its protest. We describe the firm's principal contentions below.

The protester contends that the agency's decision to assign its protest a deficiency under the transition plan subfactor was unreasonable, arguing that the continuity books

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<sup>2</sup> The task order, issued under the CHESS ITES-3S IDIQ contract, has an expected value of \$80 million, and it is therefore within our jurisdiction to review protests of task orders placed under Department of Defense multiple-award IDIQ contracts valued in excess of \$25 million. 10 U.S.C. § 2304c(e)(1)(B).

requirement was neither material nor a requirement. Comments & 2<sup>nd</sup> Supp. Protest at 6-7. The protester further asserts that its proposal complied with the solicitation's evaluation criteria under the transition plan subfactor by describing the processes, policies, and resources it would utilize to support stability and continuity. *Id.* at 12; see Protest at 12-14.

The protester argues that the solicitation instruction to “[d]escribe the processes, policies, and tools provided to employees to facilitate maintenance of continuity books” is not a material requirement. RFP at 8. Specifically, the protester asserts that “[n]either the [s]olicitation’s stated evaluation criteria nor the SOW even reference the term ‘continuity books.’” Comments & 2<sup>nd</sup> Supp. Protest at 7. Soft Tech distinguishes between the instructions and evaluation criteria sections of the solicitation and argues that because the solicitation referenced continuity books in the instructions and not the evaluation criteria section, the agency cannot claim that discussing continuity books is a material requirement. *Id.* at 9-11.

The agency responds that the evaluation criterion in RFP section 3.1.3 encompasses the instruction in section 2.1.3 for offerors to describe their transition approach, specifically with reference to continuity books. Supp. MOL at 7. The agency points out that the solicitation first instructs offerors to “[d]escribe the processes, policies, and tools . . . to facilitate maintenance of continuity books” and then repeats this language in the evaluation criteria when it states that “[t]he Government will evaluate the degree to which *described processes, policies, and resources* support stability during a transition out, at the end of the period of performance.” *Id.* (emphasis added). The agency concludes that the solicitation’s plain language unambiguously required offerors to discuss continuity books in their proposals and that the agency reasonably rejected the protester’s proposal when Soft Tech failed to provide the required description. *Id.* at 9.

In reviewing protests of an agency’s evaluation, we do not reevaluate proposals; rather, we review the record to determine whether the evaluation is reasonable and consistent with the solicitation’s evaluation scheme and applicable procurement laws and regulations. See *Ball Aerospace & Techs. Corp.*, B-411359, B-411359.2, July 16, 2015, 2015 CPD ¶ 219 at 7. It is undisputed that a proposal that fails to conform to a material solicitation requirement is technically unacceptable and cannot form the basis for award. See *Pioneering Evolution, LLC*, B-412016, B-412016.2, Dec. 8, 2015, 2015 CPD ¶ 385 at 7. While a solicitation must inform offerors of the basis for proposal evaluation by identifying the evaluation factors and their relative importance, a solicitation need not specifically identify each and every element an agency considers during an evaluation where such elements are intrinsic to, or reasonably subsumed within, the stated evaluation factors. *Horizon Indus., Ltd.*, B-416222, July 11, 2018, 2018 CPD ¶ 235 at 6.

Here, we reject the protester’s assertion that the absence of the specific term “continuity books” in the evaluation section of the solicitation means that the agency may not consider it to be a material requirement. On this record, we agree with the agency’s argument that the solicitation’s language regarding processes, policies, and tools or resources in both section 2.1.3 and section 3.1.3 of the RFP indicates that the reference

to continuity books, specifically identified in the solicitation instructions, is reasonably subsumed within the evaluation criteria. To the extent that the protester relies on GAO precedent to distinguish between the evaluation criteria as defining material requirements and the continuity books instruction as providing guidance, the decisions on which Soft Tech relies are inapposite here.<sup>3</sup> 2<sup>nd</sup> Supp. Comments at 2, 10-12; see *Orion Tech, Inc.*, B-405077, Aug. 12, 2011, 2011 CPD ¶ 159; *STAcqMe LLC*, B-417128, Feb. 25, 2019, 2019 CPD ¶ 95. This protest ground is denied.

Notwithstanding the protester's arguments about whether the continuity books instruction reflects a material requirement, the protester argues that its proposal complied with the evaluation criteria and therefore should not have been assessed a deficiency. Soft Tech argues that under the transition plan subfactor, its proposal complied by presenting a comprehensive transition approach and describing the processes, policies, and resources it would utilize to support stability and continuity. Protest at 13; Comments & 2<sup>nd</sup> Supp. Protest at 12. The protester acknowledges that it only briefly mentioned continuity books in its proposal, but asserts that it instead provided a "robust discussion of its processes, policies, and resources to ensure stability and continuity," pointing to the emphasis placed on stability and continuity in the solicitation's evaluation criteria and the SOW. Comments & 2<sup>nd</sup> Supp. Protest at 12-16.

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<sup>3</sup> The protester cites to multiple decisions, but leans most heavily on *Orion Tech, Inc.*, B-405077, Aug. 12, 2011, 2011 CPD ¶ 159, and *STAcqMe LLC*, B-417128, Feb. 25, 2019, 2019 CPD ¶ 95, to support its contention that solicitation instructions and evaluation criteria are distinct, and that the evaluators are strictly limited to the exact terms of the evaluation section in evaluating proposals. We find no support in the cited decisions for these assertions.

For example, in *Orion Tech, Inc.*, our Office denied a challenge to an agency's decision to exclude the protester's proposal from a competition because it failed to provide required information, where the solicitation's instruction section expressly cautioned that omission of this information could result in the rejection of the proposal. Soft Tech extrapolates from that decision that its proposal could not be found unacceptable due to informational deficiencies because here, the instructions section "does not expressly caution offerors like Soft Tech that failure to submit the detailed information concerning the maintenance of 'continuity books' could result in the elimination of their proposal." 2<sup>nd</sup> Supp. Comments at 2. However, the fact that the *Orion Tech* solicitation expressly cautioned against failing to submit certain information does not mean that such express language must be included in a solicitation before an agency can evaluate a proposal as unacceptable for failure to include information the offeror was instructed to include. See *Horizon Indus., Ltd.*, *supra*.

With regard to the *STAcqMe* decision, the facts in that protest render that decision inapposite here. In that decision, the relevant solicitation instructions section and evaluation section differed to the point of creating conflict; the two sections could not "be read in harmony with each other." *STAcqMe, LLC*, *supra* at 6.

In response, the agency notes that the protester does not dispute that its description of continuity books was limited, and asserts that Soft Tech's proposal did not meet the requirement to describe the "processes, policies, and tools provided to employees to facilitate maintenance of continuity books." Supp. MOL at 9. Rather, the proposal's brief mention of continuity books stated that site leads would "[m]aintain [s]ite continuity books throughout performance to ensure they are up-to-date and ready for turn over to incoming contractor" and "[e]nsure that there are up-to-date documented processes and procedures (e.g., SOPs [standard operating procedures], Continuity Books, checklists) for the critical functions." AR, Tab 7, Soft Tech Proposal at 16, 23.

Here, the record supports as reasonable the agency's conclusion that the protester's proposal was unacceptable, and consequently, unawardable. Viewing the solicitation as a whole for purposes of ascertaining the significance of the instructions section, we conclude that the instruction with regard to continuity books would be rendered meaningless if, as suggested by the protester, it was viewed as having no impact on the evaluation. The record shows that the protester's proposal makes only limited references to continuity books. MOL at 5; AR, Tab 7, Soft Tech Proposal at 16. The proposal stated briefly that continuity books would be maintained, without describing exactly how they would be maintained, despite the solicitation's warning that proposals "that simply restate the Government's requirement will be rated unacceptable." *Id.*; RFP at 9. Given these facts, we find no basis to disagree with the agency's judgment that the protester's proposal failed to provide the level of information contemplated by the RFP. The protester's disagreement with the agency's judgment does not show that the evaluation was unreasonable. This protest ground is denied.

Given our conclusion, above, that the agency reasonably excluded Soft Tech's proposal from the competitive range, we need not address the protester's additional arguments; namely, that the agency unreasonably assigned weaknesses to the firm's proposal under all three technical subfactors, and that the agency also failed to recognize strengths in those same subfactors. Comments & 2<sup>nd</sup> Supp. Protest at 17-53. Our resolution of these additional arguments would not alter the deficiency that was assessed to Soft Tech's proposal, rendering it unacceptable, and therefore would not change the outcome of this decision.

The protest is denied.

Thomas H. Armstrong  
General Counsel