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Decision

Matter of: Enterprise Resource Planned Systems International, LLC

File: B-419763.2; B-419763.3

Date: November 15, 2021

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Mary Schaffer, Esq., Ashlee N. Adams, Esq., and Kirsten Lefebure, Esq., Department of Treasury, for the agency.

Michael P. Grogan, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Challenges to the agency's price and technical evaluations are denied where the evaluations were reasonable and consistent with the terms of the solicitation.

DECISION

Enterprise Resource Planned Systems International, LLC (ERPSI), a small business joint venture of Laurel, Maryland, protests the issuance of a task order to CSRA, LLC, pursuant to request for task order proposals (RFTOPs) No. C-85117-SB and No. C-85122-0, issued by the Department of the Treasury, Bureau of the Fiscal Service, for enterprise network information technology services for the Corporation for National and Community Service. The protester contends the agency's price and technical evaluations were flawed.

We deny the protest.

BACKGROUND

The agency issued the solicitations on January 5, 2021, pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 16.5, to firms holding Chief Information Officer--Solutions and Partners 3 (CIO-SP3) indefinite-delivery, indefinite-quantity (IDIQ)

contracts awarded by the National Institutes of Health (NIH).¹ Contracting Officer's Statement (COS) at 3. The solicitation contemplated the issuance of a single fixed-price task order, with a 9-month base period of performance, four 1-year option periods, and a final 3-month option period. Agency Report (AR), Government's Exhibit (GX) 3, RFTOP at 15, 17.² The RFTOP sought enterprise information technology services (eITS) for the Corporation for National and Community Service (CNCS), specifically, operational and management solutions to facilitate the sustainability and administration of CNCS's information technology (IT) systems. *Id.* at 15. The contractor will be required to provide all personnel, equipment, supplies, facilities, transportation, tools, materials, supervision, and other items and non-personal services necessary to perform eITS requirements as defined in the performance work statement (PWS). *Id.*

The solicitation provided for award on a best-value tradeoff basis, considering five factors: (1) management and technical capabilities; (2) staffing approach, key personnel/personnel qualifications; (3) past performance; (4) small business participation commitment; and (5) price.³ *Id.* at 78-80. As relevant to this protest, under the management and technical capabilities factor, Treasury would evaluate offerors' "technical understanding, approach and capabilities in meeting contract requirements[.]" as well as "the manner and extent to which the proposal responds to the full range of requirements with methods, processes and tools that demonstrate feasibility, completeness, and effectiveness of the proposed approach." *Id.* Specifically, the

¹ Treasury issued two solicitations--one under the small business restricted contract (CIO-SP3-SB) and the second under the unrestricted contract (CIO-SP3)--for the award of the single task order at issue in this protest. Contracting Officer's Statement at 3. The primary distinctions between the two multiple-award IDIQ contracts are the initial small business eligibility criteria for the CIO-SP3-SB contract, as well as the associated eligibility requirements and subcontracting limitations for orders set aside for small businesses under the CIO-SP3-SB contract.

As a related matter, CSRA argues that ERPSI is not an interested party to challenge the agency's decision to issue a task order to CSRA because "ERPSI submitted a proposal and filed a protest under a solicitation different from the one under which the Agency awarded the task order." Intervenor Comments at 19. However, because the agency simultaneously issued two solicitations for one requirement and intended to issue a single task order following a single competition among all offerors--that is, among those who competed under both the small business restricted and unrestricted CIO-SP3 solicitations--we conclude that ERPSI has a sufficient economic interest to satisfy our interested party standard. 4 C.F.R. § 21.0(a)(1).

² Our citations to the record correspond to the Adobe PDF document page numbers.

³ As relevant to the protest, the agency used the following adjectival rating scheme when evaluating proposals under management and technical capabilities factor, and the staffing approach, key personnel/personnel qualifications factor: outstanding; good; acceptable; marginal; unacceptable. AR, GX 37, Technical Evaluation Panel (TEP) Final Evaluation Summary at 3.

solicitation advised that the following factors would be considered in the agency's evaluation: understanding of the requirement and ability to provide services; risk management; logistics and schedule; modern and cost-effective solutions; security operations; and quality assurance. *Id.* at 78-79. For the staffing approach, key personnel/personnel qualifications factor, offerors were required to detail how they would meet the PWS requirements, with Treasury considering how proposals demonstrate offerors' education and experience, staffing plan, corporate commitment and reach-back capability, and staffing approach. *Id.* Price would be evaluated for reasonableness. *Id.* at 80. The RFTOP stated that the non-price factors, when combined, were equal to price. *Id.* at 78.

The agency received multiple proposals by the January 25 submission deadline, to include proposals from CSRA and ERPSI. COS at 4. Following its evaluation, the agency selected CSRA as representing the best value to the agency on or about March 10. COS at 8. Prior to Treasury's finalization of its award decision, ERPSI filed a size status protest with the Small Business Administration (SBA) on March 17, arguing that CSRA was not eligible for award because it was not a small business. AR, GX 1, ERPSI's SBA Size Protest at 2. On March 26, the SBA dismissed the protest. AR, GX 2, Dismissal of ERPSI's SBA Size Protest at 2. The SBA stated that because Treasury's requirement was competed under both CIO-SP3 and CIO-SP3-SB, status as a small business was not required for the procurement. *Id.* Treasury awarded the contract to CSRA on April 9. COS at 9.

On April 19, ERPSI filed a protest with our Office, challenging the agency's evaluation of its proposal. On May 11, the agency advised that it intended to take corrective action by reevaluating ERPSI's and CSRA's proposals and making a new source selection decision. Our Office dismissed the protest as academic on May 13. *Enterprise Resource Planned Systems International, LLC, B-419763, May 13, 2021* (unpublished decision).

Following its reevaluation, Treasury again selected CSRA as representing the best value to the agency. AR, GX 39, Award Recommendation at 2. The following is a summary of the agency's final ratings for CSRA and ERPSI:⁴

	CSRA	ERPSI
Overall Technical Rating	Outstanding	Acceptable

⁴ Treasury assigned ERPSI's proposal the following final ratings: ratings of acceptable under both the management and technical capabilities and the staffing approach, key personnel/personnel qualifications factors; a rating of satisfactory under past performance; and a rating of outstanding for small business participation commitment. AR, GX 39, Award Recommendation at 5. Because the agency's evaluation of the awardee's technical proposal was not at issue in this protest, the agency redacted CSRA's individual adjectival ratings from the record.

Price	\$94.3M	\$60.80M
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Id. at 5.

In arriving at its decision, the agency noted that while the protester met the requirements of the solicitation, ERPSI “didn't provide modern and innovative solutions in the base proposal, leaving [CNCS] at risk [for] additional cost to implement improved services.” AR, GX 37, TEP Final Evaluation Summary at 16. The TEP also highlighted ERPSI’s price, which was only 61 percent of the agency’s cost estimate, noting that this low price “was attributed to missing elements in the cost proposal, low staffing levels and an absence of modern and innovative solutions.” AR, GX 38, Best-Value Recommendation at 2.

On the other hand, the agency found that CSRA provided an outstanding technical proposal, which included “[n]umerous innovations, particularly in automation and service delivery[.]” *Id.* at 4. In comparing the two proposals, the source selection authority, who was also the contracting officer, concluded that “[w]hile CSRA reflects a \$33,453,447.04 greater cost than ERPSI, the level of service and technical benefits of their all-inclusive approach outweighs the cost savings presented by ERPSI.” AR, GX 39, Award Recommendation at 5. Following its debriefing on August 6, ERPSI filed the instant protest on August 9.⁵

DISCUSSION

ERPSI marshals two primary challenges. First, the protester argues the agency conducted a flawed evaluation of its technical proposal under both the management and technical capabilities, and the staffing approach, key personnel/personnel qualifications factors. Protest at 7-29; Comments and Supp. Protest at 5-21. In this regard, ERPSI challenges every weakness and significant weakness its proposal received--12 weaknesses and 6 significant weaknesses--arguing that the agency’s findings were unreasonable and contrary to the terms of the solicitation. *Id.* Second, ERPSI challenges the agency’s price evaluation. Protest at 5-7; Comments and Supp. Protest at 1-4; 6-7; Supp. Comments at 1-4. The protester contends Treasury improperly conducted a price realism analysis, and that its price reasonableness analysis rested on a flawed independent government cost estimate (IGCE). *Id.* For the following reasons, we find no basis on which to sustain the protest.⁶

⁵ The estimated value of the underlying task order exceeds \$94 million; thus, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award IDIQ contracts in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

⁶ ERPSI raises other collateral allegations. Although our decision does not specifically address them all, we have considered each argument and find that none provides a basis on which to sustain the protest. For example, the protester alleges that the

Technical and Staffing Evaluation

The protester finds fault with each significant weakness and weakness assigned under the management and technical capabilities, and the staffing approach, key personnel/personnel qualifications factors. Protest at 7-29; Comments and Supp. Protest at 5-21. In ERPSI's view, Treasury's evaluation was unreasonable because, among other things, the agency failed to consider relevant portions of the firm's proposal and applied unstated evaluation criteria. *Id.* Although we have considered each of the protester's challenges and find that none provides a basis to sustain the protest, given the sheer number of challenges raised, we have limited our decision to the resolution of several representative examples.

This task order competition was conducted pursuant to FAR subpart 16.5. The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the contracting agency's discretion, because the agency is responsible for defining its needs and the best method of accommodating them. *Engility Corp.*, B-413120.3 *et al.*, Feb. 14, 2017, 2017 CPD ¶ 70 at 15; *URS Fed. Servs., Inc.*, B-413333, Oct. 11, 2016, 2016 CPD ¶ 286 at 6. Our Office will review evaluation challenges to task order procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. *Engility Corp.*, *supra*, at 15-16. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. *Id.*

agency engaged in disparate treatment in the evaluation of offerors' staffing plans in two specific areas: proposed staffing for task 6 (concerning forest rename and migration) and the role of subject matter experts (SME). Comments and Supp. Protest at 4-5; Supp. Comments at 4-6. However, based on our review of the record, the protester's argument is without merit.

The underlying evaluation record demonstrates that the agency assigned ERPSI's proposal a significant weakness under task 6 for its minimal staffing; the agency did not have a similar concern with CSRA's approach, given its significantly higher staffing levels. *Compare* AR, GX 49, ERPSI Pricing Worksheet at 5, 9, 11-12 (ERPSI proposing [DELETED] hours for task 6 in option period one, and [DELETED] hours in option period two) *with* AR, GX 45, Awarded Contract at 85-86 (CSRA proposing [DELETED] labor hours for task 6 in option period one, and [DELETED] labor hours for option year two). Similarly, the record shows that Treasury assigned a weakness to ERPSI's proposal based on the protester's decision to propose [DELETED], an issue simply not present in CSRA's proposal. AR, GX 16, ERPSI Proposal at 34. Because differences in Treasury's evaluation reasonably stem from differences between the proposals, ERPSI has not demonstrated that the agency treated offerors unequally. *See IndraSoft, Inc.*, B-414026, B-414026.2, Jan. 23, 2017, 2017 CPD ¶ 30 at 10.

Here, the protester contends the agency erred by assigning its proposal a significant weakness under the management and technical capabilities factor due to “ambiguity in its non-committal responses,” which “introduce[d] a risk for the agency of additional costs.” AR, GX 37, TEP Final Evaluation Summary at 22. The TEP provides seven specific examples where ERPSI’s proposal failed to offer detail on what, specifically, the firm was offering as part of its technical solution. *Id.* at 22-23. For example, the TEP notes that while ERPSI’s proposal provides that the firm will maximize the utilization of open source capabilities, the identified initiatives are referenced as “recommendations” and “such as” options “without a commitment to acquire these services and software or to perform the implementation in the eITS base contract.” *Id.* The TEP concludes that “[w]ithout clearly committing to implementation of these solutions, [CNCS] is at risk [of] additional cost for a comprehensive solution.” *Id.* at 23; *see also* AR, GX 38, Best-Value Recommendation at 3 (noting that ERPSI’s proposal “mentioned numerous potential recommended services, but they provided none of them.”).

In response, ERPSI argues that had “the Agency desired a rigid approach and the establishment of specific applications, solutions, and approaches . . . it should not have placed emphasis on the need to continuously assess and recommend changes and improvements during performance[.]” Protest at 8. While the protester is correct that the solicitation did seek assessments, recommendations of changes, and improvements, the RFTOP also required contractors to “provide all personnel, equipment, supplies, facilities, transportation, tools, materials, supervision, and other items and non-personal services necessary to perform” the required tasks. RFTOP at 15. Indeed, the solicitation includes seven tasks to be performed, each with specific and unique requirements. *Id.* at 27-63. The protester’s equivocation on what, exactly, it would be providing under the contract to perform these tasks reasonably led the TEP to conclude that ERPSI’s approach carried risk.

Moreover, the solicitation required offerors to price their technical solutions in their price proposals. See RFTOP at 74 (contractors pricing worksheets “shall” include all costs). Yet, many of the protester’s recommended solutions were not included in its price proposal. As an example, the protester recommended the creation of a threat lifecycle management platform. AR, GX 16, ERPSI’s Proposal at 18. However, ERPSI “did not clarify what technical solutions they were actually providing in either the technical or cost proposals” with regard to this platform. AR, GX 38, Best-Value Recommendation at 4. As the agency’s conclusion that ERPSI’s proposal included ambiguous and equivocal technical solutions finds support in the record, we cannot conclude that the significant weakness assigned was unreasonable.

Taking another example, under the staffing approach, key personnel/personnel qualifications factor, Treasury assigned ERPSI’s proposal a significant weakness based on its proposed level of effort for service desk functions. AR, GX 37, TEP Final Evaluation Summary at 27-28. Under task 2 of the PWS, regarding program management, offerors were required to operate and maintain a single point of contact IT service desk. AR, GX 3, RFTOP at 36-37. The solicitation outlined three tiers of service desks (with the different tiers addressing IT problems of different complexity)

and provided historical data on CNCS's service desk operations. *Id.* at 37. The TEP noted that per the historical data described in the solicitation, a contractor must be prepared to handle at least 27,520 calls every six months, an average of 4,586 calls monthly. AR, GX 37, TEP Final Evaluation Summary at 27. However, the TEP found that the protester's proposal indicated its single point of contact team would be trained to handle at least [DELETED] service incidents per month, a mere [DELETED] percent of the historical workload. *Id.* at 27-28. The TEP assigned a significant weakness as a result, concluding that ERPSI "may need to substantially revise their staffing plan to meet historical and future workloads." *Id.* at 28; see also AR, GX 38, Best-Value Recommendation at 3 (ERPSI's service desk staffing "was insufficient to meet the stated requirement."), 5 (a "[l]ack of service desk coverage contributed to ERPSI's lower rating.>").

The protester responds that the agency simply misread its proposal, arguing that a "plain reading" demonstrates the firm provided sufficient resources to meet the requirement. Comments and Supp. Protest at 18-19. The protester's argument, however, is not supported by the record. The record reflects that the protester's proposal does not differentiate between the help desk tiers where it provides its "team will be trained to handle at least [DELETED] incident tickets per month." AR, GX 16, ERPSI's Proposal at 9. Thus, a natural reading would be that this estimate applied to the entirety of the service desk support, not just one tier as the protester now suggests in its protest. Moreover, nothing in the remainder of ERPSI's proposal contradicts this conclusion, or otherwise explains how ERPSI's proposed level of effort can meet the agency's requirements. An offeror has the burden of submitting an adequately written proposal; where a proposal omits, inadequately addresses, or fails to clearly convey required information, the offeror runs the risk of an adverse agency evaluation. *Addvetco, Inc.*, B-412702, B-412702.2, May 3, 2016, 2016 CPD ¶ 112 at 7-8. Accordingly, we conclude the assignment of a significant weakness, in this regard, was reasonable. ERPSI's protest allegations challenging the agency's evaluation under the technical factors are denied.⁷

Price Evaluation

The protester next argues that Treasury conducted a flawed price evaluation. First, ERPSI contends that the agency improperly conducted a price realism analysis because the RFTOP did not advise offerors that such an analysis would occur. Protest at 5-7; Comment and Supp. Protest at 6-7. Generally, when a solicitation contemplates

⁷ Based on our review of the record, we also find reasonable Treasury's cumulative evaluation. We note, however, that even if ERPSI were to prevail on a few of its arguments about assigned weaknesses, the protester could not reasonably establish competitive prejudice. Competitive prejudice is an essential element of any viable protest, and where none is shown or otherwise evident, we will not sustain a protest, even where a protester may have shown that an agency's actions arguably were improper. *Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, 2018 CPD ¶ 33 at 8 n.3. In this regard, the presence of the numerous remaining significant weaknesses and weaknesses would still support the agency's ultimate evaluation conclusions. *Id.*

award of a fixed-price contract or task order, an agency may conduct a price realism analysis for the limited purpose of assessing whether an offeror's low price reflects a lack of technical understanding or risk, but it may do so only when it has advised offerors in the solicitation that such an analysis will be conducted. See *IR Techs.*, B-414430 *et al.*, June 6, 2017, 2017 CPD ¶ 162 at 7. Absent a solicitation provision advising offerors that the agency intends to conduct a price realism analysis, agencies are neither required nor permitted to conduct such an analysis when awarding a fixed-price contract. *Id.*

Here, the record does not support the protester's claim that the agency conducted a price realism analysis. In support of its argument, the protester alleges that the TEP raised concerns about ERPSI's proposed price being too low to fulfill the representations made in its technical proposal. Comments and Supp. Protest at 6. For example, ERPSI points to the TEP's statements concerning technical solutions not found in the firm's price proposal. See AR, GX 38, Best-Value Recommendation at 6 (the TEP stated "ERPSI indicated use of [DELETED] but did not include it in their pricing."). However, this and similar statements made by the TEP do not demonstrate that Treasury evaluated ERPSI's price for realism.

Instead, the record reflects the agency's concern that ERPSI's proposal carried technical risk in multiple respects, which in turn carried price risks. For example, as previously discussed, ERPSI's proposal included ambiguities as to what, specifically, the firm was proposing as its technical solution. See AR, GX 37, TEP Final Evaluation Summary at 22. This ambiguity manifested both in the equivocal language in the protester's technical proposal and in its failure to price suggested solutions in its price proposal.⁸ These technical risks, in turn also carried associated pricing risks--the agency reasonably concluded that it might have to incur additional costs to satisfy the requirements of the contract where ERPSI's proposal was ambiguous. *Id.* The record demonstrates that it was not the protester's price that raised concerns about the risk or feasibility of ERPSI's technical approach. Instead, the agency had concerns about the firm's technical approach that increased the possibility of additional costs during performance of the contract to meet the eITS' requirements. Accordingly, we deny the protester's allegation that the agency improperly performed a price realism evaluation. *Emergint Techs., Inc.*, B-407006, Oct. 18, 2012, 2012 CPD ¶ 295 at 5-6.

The protester's second challenge to Treasury's price evaluation centers on the agency's finding that CRSA's proposed price of \$94.3 million was reasonable. Comments and Supp. Protest at 1-4; Supp. Comments at 2-4. According to the protester, the agency used an IGCE that was too high when it performed its price reasonableness evaluation, and had Treasury used an accurate IGCE, CSRA's price would have been found unreasonable. *Id.* Specifically, the protester focuses on staffing costs for task 6 (forest

⁸ The agency expressed similar concerns related to the protester understaffing certain tasks. AR, GX 37, TEP Final Evaluation Summary at 26-27; AR, GX 38, Best-Value Recommendation at 2

rename and migration), arguing that the agency's IGCE did not properly capture labor costs for the base and option years for this task. *Id.*

Under task 6, the solicitation required contractors to propose a solution to migrate CNCS's domain name from cns.gov to americorps.gov. AR, GX 3, RFTOP at 61-62. It appears that the agency's price reasonableness analysis used two different IGCEs: one that did not account for task 6 labor costs, and one that aligned with the staffing estimates provided in the pricing worksheet (that includes those labor costs). See AR, GX 39, Award Recommendation at 5 (comparing CSRA's price of \$94.3 million to an IGCE of \$98.9 million without costs for task 6, and an IGCE of \$105.4 million, including the costs for task 6).

Regardless of what metric Treasury used, however, CSRA's proposed price falls below both of these estimates. Accordingly, despite the record suggesting the existence of inconsistencies in the agency's price reasonableness evaluation, we cannot conclude that the agency improperly found CSRA's price to be reasonable, or that ERPSI suffered prejudice because of the agency's actions.⁹ *DynCorp Int'l LLC*, B-411465, B-411465.2, Aug. 4, 2015, 2015 CPD ¶ 228 at 12-13 ("Competitive prejudice is an essential element of a viable 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, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the procurement are found.").

The protest is denied.

Edda Emmanuelli Perez
General Counsel

⁹ The protester also alleges other defects in the agency's price analysis. See Supp. Comments at 3-4. We find no merit to these allegations.