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# Decision

**Matter of:** INNOVIM, LLC

**File:** B-419912; B-419912.2

**Date:** September 21, 2021

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## DIGEST

Protest challenging the evaluation of the protester's technical proposal is denied where there is no basis to conclude that the agency's evaluation was unreasonable.

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## DECISION

INNOVIM, LLC, a women-owned small business (WOSB) of Greenbelt, Maryland, protests the issuance of a task order to Earth Resources Technology, Inc. (ERT) of Laurel, Maryland, pursuant to task order request for proposals (TORP) No. 1305M221QNWWX0025, which was issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), for scientific support services. The protester, who is also the incumbent here, contends that the agency unreasonably evaluated its technical proposal.

We deny the protest.

## BACKGROUND

On February 18, 2021, pursuant to Federal Acquisition Regulation (FAR) subpart 16.5, the agency issued the solicitation to WOSBs holding the agency's professional, scientific, and technical services satellite domain multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contracts. Agency Report (AR), exh. 1, TORP at 1, 3, 21. The TORP sought proposals for scientific support services to the agency's Climate

Prediction Center (CPC), and contemplated a 1-year base performance period and four 1-year option periods.<sup>1</sup> PWS at 2. Offerors were advised that NOAA intended to award a single hybrid fixed-price and time-and-materials task order, on a best-value tradeoff basis. TORP at 3.

The solicitation instructed that proposals would be evaluated on the basis of three factors, listed in descending order of importance: technical approach; management approach; and price. TORP at 28. The technical approach factor was more important than the management approach factor, and the non-price factors, when combined, were significantly more important than price. *Id.* at 29.

Regarding the technical approach factor, the solicitation advised that the agency would evaluate whether offerors demonstrated their capability to accomplish the requirements set forth in the PWS. TORP at 25. The PWS required the selected contractor to improve, update, and enhance existing tools and products used by the CPC, including developing and making improvements to sub-seasonal Arctic sea ice products, sub-seasonal and seasonal drought products, severe weather products, extreme heat outlooks, and tropical cyclone outlooks. PWS at 3. The PWS also required the selected contractor to improve various climate data sets used to monitor the atmosphere, ocean, cryosphere, and land surface. *Id.* at 4.

For their management approaches, offerors were instructed to submit a comprehensive management structure plan that articulates efficient and effective staff management. TORP at 26. Offerors were required to identify staff recruitment and retention techniques, a work-management plan for employee turnover, performance evaluation plans, transition plans, and key personnel. *Id.* The solicitation advised that the agency would evaluate an offeror's understanding of the requirement, and demonstrated capability to perform the contract. *Id.* at 29-30.

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<sup>1</sup> CPC is a service center in the National Centers for Environmental Prediction, part of the National Weather Service, which monitors and predicts the global climate system, and identifies and evaluates significant climate anomalies. AR, exh. 3, Performance Work Statement (PWS) at 2. The support services sought by the solicitation included providing real-time products and services that predict and describe climate variations that promote the effective management of climate risks. *Id.* The contractors were to "support and improve sub-seasonal and seasonal prediction and climate monitoring activities at the CPC," including offering improvements and additions of sub-seasonal and seasonal products; managing and improving monitoring data sets; assisting with outreach to CPC stakeholders; and offering program management and administrative support. *Id.*

The agency received proposals from three offerors, including INNOVIM and ERT. AR, exh. 5, Technical Evaluation Team (TET) Report at 2. After evaluating proposals, the TET assigned INNOVIM's and ERT's proposals the following ratings:<sup>2</sup>

	INNOVIM	ERT
<b>Technical Approach</b>	Acceptable	Outstanding
<b>Management Approach</b>	Good	Good
<b>Overall Rating</b>	Acceptable	Outstanding
<b>Total Evaluated Price<sup>3</sup></b>	\$22,058,969	\$21,979,349

*Id.* at 8; COS ¶ 25.

When evaluating INNOVIM's technical approach factor, the TET identified three strengths and two weaknesses.<sup>4</sup> AR, exh. 5, TET Report at 17-19. The TET assigned the first weakness because it concluded that INNOVIM failed to propose improvements to the CPC's sub-seasonal and seasonal products, and instead, its proposal largely referenced the work it already completed on the incumbent contract. *Id.* at 18. The TET found that INNOVIM's failure to describe proposed improvements presented a risk to the government, "as improvements to these prediction products are critical to continue advancing CPC's prediction mission." *Id.* The TET assigned the second weakness because INNOVIM similarly did not articulate "new ideas or plans" regarding improvements to the CPC's climate data sets. *Id.* The TET noted that INNOVIM's approach included data manipulation tasks, but that these functions have already been implemented. *Id.* The TET assigned a rating of acceptable to the proposed technical approach, finding that while the protester demonstrated "an adequate approach and

<sup>2</sup> The TET assigned the proposals the adjectival ratings of outstanding, good, acceptable, marginal, or unacceptable, for the technical approach and management approach evaluation factors. COS ¶ 16.

<sup>3</sup> As explained by the agency, the total evaluated price was initially incorrectly calculated because the calculation did not include the cost of the option to extend services, pursuant to FAR clause 52.217-8. Contracting Officer's Statement (COS) ¶ 25. The calculation was subsequently corrected, and the source selection authority considered the revised prices in the source selection decision. *Id.*

<sup>4</sup> Relevant here, the TET used the following definitions in its evaluation: significant strength was defined as "[a]n element of the proposal which substantially enhances the merit of the proposal or substantially exceeds specified performance or capability requirements in a way that will be highly beneficial to the [g]overnment during contract performance"; strength was defined as "[a]n element of the proposal that has merit or exceeds specified performance or capability requirements in a way that will be advantageous to the [g]overnment during contract performance"; and weakness was defined as "[a] flaw in the proposal that increases the risk of unsuccessful contract performance." COS ¶ 15.

understanding of the requirements,” the lack of detail in how INNOVIM would improve the climate prediction tools presented a risk to the government. *Id.* at 19.

With respect to the evaluation of the management approach factor, the TET identified two strengths and one significant strength in INNOVIM’s proposal. AR, exh. 5, TET Report at 21. The TET assigned a rating of good to the proposed management approach, concluding that the protester “demonstrated a thorough approach and understanding of the requirements.” *Id.*

Following completion of the technical evaluations, the contracting officer evaluated price proposals, and found the proposed prices reasonable. COS ¶ 25. Subsequently, the contracting officer, acting as the source selection authority (SSA), conducted a tradeoff analysis and noted that ERT had a more advantageous technical approach because INNOVIM failed to articulate improvements to the seasonal and sub-seasonal weather products and climate data sets. *Id.* at 31-32. In addition, ERT proposed a lower price. *Id.* at 32. Accordingly, the SSA concluded that ERT’s proposal represented the best value to the government, and the agency made award to that firm. *Id.*

On June 8, the agency notified INNOVIM that ERT had been selected to perform the task order. AR, exh. 7, Award Notice at 1. This protest followed.<sup>5</sup>

## DISCUSSION

INNOVIM raises multiple challenges to the agency’s evaluation of its proposal. First, the firm asserts that the agency unreasonably assigned two weaknesses to its technical approach. Second, INNOVIM argues that the agency failed to identify additional significant strengths and/or strengths in its management approach. We have reviewed all of the protester’s allegations, and conclude that none provides us with a basis to sustain the protest.<sup>6</sup> Prior to discussing INNOVIM’s principal contentions below, we address challenges that our Office dismisses as failing to state valid bases of protest.

### Dismissed Protest Grounds

INNOVIM complains that the agency applied an evaluation methodology not contemplated by the solicitation. Protest at 16. Specifically, INNOVIM argues that the

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<sup>5</sup> The awarded value of the task order at issue exceeds \$10 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under civilian agency multiple-award IDIQ contracts. 41 U.S.C. § 4106(f)(1)(B).

<sup>6</sup> INNOVIM raises other collateral issues to those discussed in this decision. While our decision does not address every variation of every issue, we have considered the arguments and find that none provides a basis to sustain the protest. INNOVIM also challenged various aspects of the agency’s price evaluation, but later withdrew these protest grounds. Comments and Supp. Protest at 15-22; Supp. Comments at 2 n.1.

agency unreasonably assigned an “overall rating” to the firm’s non-price factors, even though the TORP does not provide that the agency would assign overall technical ratings. *Id.* at 17. INNOVIM also argues that the agency unequally evaluated both its and ERT’s proposals, “by disfavoring the incumbent.” *Id.* at 33. According to INNOVIM, the agency’s evaluation was unequal because the agency applied a stricter standard when assigning weaknesses to INNOVIM’s technical approach. Comments and Supp. Protest at 13-14. The agency requests dismissal of the allegations, arguing that the allegations lack sufficient factual or legal support.<sup>7</sup> Agency’s Concurrence to Req. for Dismissal at 2-3; Supp. MOL at 6-8.

As to INNOVIM’s allegation regarding the agency’s use of overall ratings for the non-price factors, we dismiss that allegation as failing to state a valid basis of protest. Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. §§ 21.1(c)(4), (f). Here, the protest ground is legally insufficient because the allegation, on its face, contradicts the evaluation criteria. See TORP at 29.

Indeed, the TORP specifically provides that the agency’s tradeoff analysis would consider a combined evaluation of both the technical approach and management approach factors when comparing the price and non-price factors. TORP at 29 (“The two (2) non-price factors Technical Approach and Management Approach, when combined, are significantly more important than Price.”). Thus, INNOVIM’s allegation is legally insufficient because the allegation facially does not demonstrate improper agency action (*i.e.*, that the agency violated the terms of the solicitation). See, e.g., *American Electronics, Inc.*, B-419659, B-419659.2, May 25, 2021, 2021 CPD ¶ 218 at 6 (dismissing challenge to the agency’s evaluation as legally insufficient when the allegation did not demonstrate that the agency’s evaluation violated the terms of the solicitation). Accordingly, we dismiss the protest allegation.

In any event, we do not think that the protester suffered any competitive prejudice from the agency’s use of an overall technical rating. Competitive prejudice is an essential element of every viable protest, and we will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency’s actions. *UltiSat, Inc.*, B-418769.2, B-418769.3, Feb 26, 2021, 2021 CPD ¶ 110 at 6. Here, as noted above, the SSA specifically considered the underlying technical features of the firm’s proposal when conducting the tradeoff analysis, as opposed to relying only on the overall technical rating. See AR, exh. 6, Award Memorandum at 31 (explaining that ERT offered a more advantageous technical approach due to INNOVIM’s assigned technical weaknesses). Since the agency did not base its decision on the assigned overall technical rating, but rather considered the underlying features of the firm’s

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<sup>7</sup> On July 6, the intervenor requested dismissal of INNOVIM’s protest as speculative and insufficient, *i.e.*, failing to state legally sufficient ground of protest, and NOAA joined the request. See Intervenor’s Req. for Dismissal at 4-6; Agency’s Concurrence to Req. for Dismissal at 1-3.

proposal, we see no prejudice to the protester. *See also AlliantCorps, LLC*, B-415744.5, B-415744.6, Nov. 23, 2018, 2018 CPD ¶ 399 at 7 (“Adjectival ratings and point scores are but guides to, and not substitutes for, intelligent decision making.”).

Turning to INNOVIM’s challenge regarding unequal treatment, the protester argues that NOAA applied a stricter evaluation standard to the firm’s technical approach. Comments and Supp. Protest at 13-14. As support, INNOVIM argues that ERT is not the incumbent contractor, and as a result, cannot articulate improvements to the existing products. *Id.* at 14 (“In evaluating ERT’s proposal, on the other hand, the Agency identified Strengths and Significant Strengths under its Technical Approach for providing details on *how* they perform tasks under the PWS since, naturally, as the non-incumbent, it cannot show what [it] is currently doing to develop and improve the CPC products and tools.”). Thus, in order for ERT to have been evaluated as demonstrating an “outstanding” technical approach, INNOVIM argues that the agency must have evaluated ERT using an easier standard for what techniques or strategies constituted improvements to the existing products. *Id.*

We likewise dismiss this allegation as failing to state a valid basis of protest. Any protest allegation which relies on speculation is legally insufficient because our Office will not find improper agency action based on conjecture or inference. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 3. Here, INNOVIM’s allegation is both speculative and relies on the erroneous assumption that ERT could not possibly have proposed a superior approach without the incumbent’s level of experience. *See* Comments at 14. This allegation does not identify any factual evidence demonstrating unequal treatment. Accordingly, we dismiss it.

#### Technical Approach Evaluation

As to the protester’s remaining allegations, INNOVIM argues that NOAA unreasonably assigned two weaknesses to its proposed technical approach. Protest at 18-24. The agency responds that the weaknesses are justified based on the content of INNOVIM’s proposal and the solicitation requirements. MOL at 12-16. In our view, the agency reasonably assigned both weaknesses. We discuss below the challenge to the first assessed weakness as a representative example.

INNOVIM argues that the agency unreasonably ignored features of its proposal demonstrating improvements to the seasonal and sub-seasonal products. Protest at 18-24; Comments and Supp. Protest at 22-32. INNOVIM also argues that the agency unreasonably penalized the firm based on its status as the incumbent contractor. Protest at 25-26; Comments and Supp. Protest at 34-35.

The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the agency’s discretion, since the agency is responsible for defining its needs and the best methods of accommodating them. *Sevatec, Inc.*, B-416617, B-416617.2, Nov. 1, 2018, 2019 CPD ¶ 379 at 6. 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, but rather examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. *MicroTechnologies, LLC*, B-413091, B-413091.2, Aug. 11, 2016, 2016 CPD ¶ 219 at 4-5. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which allows a meaningful review by the procuring agency. *Peraton, Inc.*, B-417088, B-417088.2, Feb. 6, 2019, 2019 CPD ¶ 190 at 14. A protester's disagreement with the agency's judgment, by itself, does not establish that an evaluation was unreasonable. *STG, Inc.*, B-405101.3 *et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

As noted above, the solicitation instructed offerors to demonstrate their technical expertise in accomplishing the specific tasks and subtasks outlined in the PWS, as well as their ability to "adapt to changes in CPC priorities, advancing technology, shifts in the industry, and new ways of doing business." TORP at 25. As relevant here, the PWS called for an approach focusing on "developing and improving" and proposing "additions" to the seasonal and sub-seasonal products. PWS at 3.

The agency assigned the first weakness because it concluded that INNOVIM failed to articulate improvements and propose additions to the seasonal and sub-seasonal products. AR, exh. 5, TET Report at 18. Specifically, the agency noted the following:

INNOVIM's approach refers to current and/or completed work for these referenced products. There is little to no mention of what INNOVIM would do to further improve these products. Much of the text provided in INNOVIM's approach is pulled from other CPC documents and pasted together in their approach, leveraging work that's been completed by them as the incumbent. While demonstrating their knowledge and prior accomplishments, it does not meet the requirement of detailing improvements to existing or developing new sub-seasonal products. For reference, with regards to the week 3-4 severe weather outlook, the entire discussion . . . only lists what has been done, with no context as to future plans. The same can be said for extreme heat outlooks . . . and development of week 3-4 Arctic Sea Ice Prediction.

AR, exh. 5, TET Report at 18.

The protester disputes the TET's conclusions, alleging that its proposal included all the required information about "its proven, tested, and improved tools and approaches for future efforts," which the agency overlooked or ignored, and points to various elements of its proposal in support. Protest at 19. As an example, INNOVIM references its five-part planning process for future efforts, used on the incumbent contract, which included, among other things, "empowering our employees," "acquiring new knowledge through conferences," and "thorough training." *Id.* According to INNOVIM, that five-part process is an "obvious forward-looking tool" used by the company for planning future actions which the agency ignored in its evaluation of INNOVIM's proposal. *Id.*

The agency maintains that the five-part planning process described above is “vague,” and largely “related to managerial aspects of the acquisition instead of the technical requirements” identified in the PWS. AR, exh. 11, Decl. of TET Lead ¶¶ 21; MOL at 14-15. The agency further argues that the proposed training and “acquiring new knowledge,” while benefiting the contractor staff, “does not necessarily translate into improved CPC tools and products,” which was NOAA’s objective for this procurement. *Id.*

Based on our review of the record, we do not agree that the agency unreasonably assigned this weakness. The solicitation required offerors to propose solutions to meet NOAA’s objective of improving sub-seasonal and seasonal prediction and climate monitoring tools. PWS at 3; TORP at 29. Our review of the underlying record confirms the agency’s conclusion that INNOVIM’s proposal lacked details explaining how it would improve or enhance those tools. Indeed, consistent with the agency’s position, the five-part planning process describes managerial techniques and strategies designed to improve general performance, as opposed to specific improvements to the seasonal and sub-seasonal products. See, e.g., AR, exh. 8, INNOVIM Tech. Proposal at 1 (stating that the five-part process includes empowering employees through industry-leading compensation, acquiring new knowledge through conferences, modernized training practices, implementing new technologies, and flexible surge hiring expertise).

To the extent INNOVIM argues that the agency should have inferred that the firm would make improvements to the seasonal and sub-seasonal products using its five-part process, we disagree. Agencies are not required to infer information from an inadequately detailed proposal or information that the protester elected not to provide. *Optimization Consulting, Inc.*, B-407377, B-407377.2, Dec. 28, 2012, 2013 CPD ¶¶ 16 at 9 n.17. Thus, we do not find that the agency was required to infer that INNOVIM would have made improvements to the seasonal and sub-seasonal products using the INNOVIM’s general approach to improving performance.

Additionally, we do not find persuasive INNOVIM’s argument that the remainder of its technical approach outlined numerous improvements to these products. See Comments and Supp. Protest at 26-29 (arguing that its explanation regarding how the firm would provide these products articulated improvements). The record shows that the agency considered these features of INNOVIM’s technical approach, and simply determined that they did not articulate improvements over the existing processes. Supp. COS ¶¶ 16; see also AR, exh. 11, Decl. of TET Lead ¶¶ 20. Further, although INNOVIM disagrees with the agency’s evaluation of these features, see Supp. Comments at 12-13, we note that disagreement, standing alone, does not provide us with a basis to sustain the protest. See *STG, Inc.*, *supra*. Accordingly, we deny this protest allegation.

The protester also argues that NOAA applied unstated evaluation criteria when assessing INNOVIM’s technical approach because the agency unfairly discounted any

references to the protester's incumbent status. Protest at 25-27 (citing Award Notice at 3, stating that INNOVIM's proposal leveraged work that has been completed by the company as the incumbent). INNOVIM alleges that the TORP did not prohibit offerors from mentioning their incumbent work, and yet, upon seeing any references to INNOVIM's incumbent performance, the agency ignored the rest of its proposal, effectively "deeming the incumbency itself a weakness." *Id.*

The agency responds that the protester fails to provide any factual support for its claim that it was penalized for being an incumbent, and argues that the protester's assertions here are legally insufficient. MOL at 16. The agency further adds that the solicitation required offerors to demonstrate their approaches to developing, improving or updating CPC's forecasting tools and monitoring data sets, and these were the only evaluation criteria considered by the agency. *Id.*

We find no merit to INNOVIM's argument here. The record shows that the agency's concerns with INNOVIM's technical approach related to the lack of adequate details in how the firm would improve the existing products on the upcoming contract. AR, exh. 6, Award Memorandum at 17-18. Indeed, our review of the evaluation documents does not identify any instances where the agency downgraded INNOVIM based on its status as the incumbent contractor; instead, NOAA only noted that describing prior accomplishments did not meet the TORP's requirement to propose improvements to existing or developing new sub-seasonal products. AR, exh. 6, Award Memorandum at 17; AR, exh. 5, TET Report at 18; AR, exh. 11, Decl. of TET Lead ¶ 24. Because the record does not provide any evidence substantiating the allegation, we do not find the agency's evaluation unreasonable and therefore deny this protest ground.

#### Management Approach Evaluation

INNOVIM also argues that its proposed management approach merited additional strengths or significant strengths. Protest at 29-30. Specifically, the protester asserts that its proposal surpassed the requirements of the solicitation in the area of management structure and supervisory capacity, among other things, and by offering a remote workforce which performed well on the incumbent contract during the COVID-19 pandemic. *Id.* INNOVIM contends that, but for these errors, its proposal would have warranted a rating of outstanding under this factor.

An agency's judgment that the features identified in a proposal did not significantly exceed the requirements of the solicitation, and thus did not warrant the assessment of unique strengths, is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, 2018 CPD ¶ 33 at 8 n.4; *Metropolitan Life Ins. Co.*, B-412717, B-412717.2, May 13, 2016, 2016 CPD ¶ 132 at 13.

On this record, we find no basis to object to the agency's evaluation. The record shows that NOAA reviewed the proposed management approach, and identified the features

that it considered to be particularly advantageous, including some which were due to the protester's incumbent status. AR, exh. 5, TET Report at 21; AR, exh. 11, Decl. of TET Lead ¶¶ 32, 36. For example, NOAA assessed a significant strength under this factor for proposing as a key person the current experienced program manager on the incumbent task order. MOL at 19-20.

Significantly, the record also shows that the agency considered the other features of the firm's management approach as not conferring any special or additional benefit. AR, exh. 11, Decl. of TET Lead ¶¶ 32-35. For example, the agency explains that during the pandemic, daily supervisory check-ins with the remote workforce are a routine procedure that is followed throughout the government; so are the quarterly meetings that have taken place between INNOVIM and CPC management in the past. AR, exh. 11, Decl. of TET Lead ¶ 33.

Thus, we find no basis to question the reasonableness of the agency's evaluation because our review confirms that the agency reviewed the firm's management approach and simply did not conclude that the alleged features warranted the assignment of any additional strengths or significant strengths. See *Protection Strategies, Inc.*, supra; *Metropolitan Life Ins. Co.*, B-412717, B-412717.2, supra. To the extent the protester disagrees with the agency's judgment concerning these features, see Comments and Supp. Protest at 39, we note that disagreement with the agency's evaluation, without more, does not provide a basis to sustain a protest. See *STG, Inc.*, supra. Accordingly, we find no basis to sustain this protest ground.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel