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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: Corps Solutions, LLC

File: B-409298.2

Date: August 21, 2014

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Robert E. Korroch, Esq., Anthony H. Anikeeff, Esq., and William A. Wozniak, Esq., Williams Mullen, for the intervenor.
James P. Winthrop, Esq., Department of the Navy, for the agency.
Robert T. Wu, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's evaluation of proposals is denied where the record shows that the agency's evaluation was reasonable and in accordance with the stated evaluation criteria.

DECISION

Corps Solutions, LLC, of Stafford, Virginia, protests the award of a task order to ITA International, LLC, of Yorktown, Virginia, by the Department of the Navy under request for proposals (RFP) No. N00024-13-R-3367 for the acquisition of live, virtual and constructive training and assessment program support services. Corps Solutions challenges the agency's evaluation of its proposal under the technical approach and past performance subfactors, the evaluation of ITA's proposal under the technical approach subfactor, and the agency's best value tradeoff decision.

We deny the protest.

BACKGROUND

The RFP, issued on September 4, 2013, as a competitive small business set-aside, sought proposals from SeaPort-e, Mid-Atlantic Region, Zone 3 multiple-award contract holders to acquire robust and comprehensive live, virtual and constructive training and assessment program support to the Navy Expeditionary Combat

Command (NECC), Expeditionary Training Group (ETG). RFP at 3. The RFP contemplated award of a fixed-price task order on a best-value basis, considering technical approach, past performance and price.¹ Id. at 38-43. The technical approach subfactor included two elements: performance approach and management approach, listed in descending order of importance. Id. at 41. Technical approach was to be more important than past performance, and both non-price subfactors, when combined, were to be more important than price. Id. An overall non-price proposal evaluation rating, encompassing technical approach and past performance, was to be assigned to each offeror's proposal. Id. at 43.

Under the technical approach subfactor, offers were to be evaluated both on their technical approach to meeting the RFP's requirements, and on an assessment of risk related to the proposed approach.² Id. at 42. A combined technical/risk rating was to be assigned, with possible adjectival ratings of outstanding, good, acceptable, marginal or unacceptable. Id. at 43.

Performance approach was to assess an offeror's demonstrated understanding of, and capability to meet, all of the performance work statement (PWS) requirements. Id. at 41. In addition, as relevant here, proposals were to be evaluated on the offeror's ability to present a performance approach that clearly describes how the offeror will "successfully accomplish the requirements of the solicitation, including the PWS." Id. The offered performance approach was to be evaluated "on feasibility, its comprehensiveness, and the degree to which the Offeror demonstrates how the requirements identified in the PWS will be successfully accomplished." Id. Management approach was to evaluate an offeror's ability to present a management plan that "clearly describes the management controls, techniques and procedures that will be used to ensure required work is performed in a timely, responsive, professional, and efficient manner." Id. Under this element, the agency was to evaluate proposed staffing plans, and the offeror's "demonstrated capability to provide cross-trained personnel with the skill sets required to successfully accomplish" the RFP's requirements. Id.

¹ The estimated value of this task order (base period plus option years) is \$12,364,324.00. AR, exh. 14, Contract Review Board Presentation, at 1. As a result, this procurement falls within our jurisdiction to hear protests related to the issuance of task orders under multiple-award ID/IQ contracts valued in excess of \$10 million. See 10 U.S.C. §2304c(e)(1)(B).

² Risk assesses the degree to which the offeror's proposed technical approach for the requirements of the solicitation may cause disruption of schedule, increased costs, degradation of performance, the need for increased government oversight, or the likelihood of unsuccessful contract performance. Id.

Past performance was to be evaluated for quality, currency and relevance, and to be assigned an overall past performance confidence assessment rating.³ Id. at 42. Assessment of past performance relevance was to consist of an evaluation of each past performance reference for individual scope, complexity, and magnitude relative to the instant requirement.⁴ Id.

Seven proposals were received in response to the RFP, including those from ITA and Corps Solutions. AR, exh. 14, Contract Review Board Presentation, at 2. The contracting officer determined that the proposal submitted by Corps Solutions represented the best value to the government, and made award to the firm. Id. at 2. On November 26, 2013, ITA protested the agency's award decision to our Office. The agency subsequently advised that it intended to take corrective action by reevaluating proposals and arriving at a new source selection decision. Our Office dismissed the protest as academic on February 11, 2014.

The agency convened a new technical evaluation board (TEB), and conducted a new evaluation of the proposals submitted by ITA and Corps Solutions. In evaluating ITA's proposal, the TEB assigned a rating of outstanding under performance approach, noting eight strengths and no weaknesses.⁵ AR, exh. 13, Technical Evaluation, at 1-3. The TEB assigned a rating of good to ITA's proposal under management approach, identifying three strengths and no weaknesses in the firm's proposal. Id. at 3. ITA's proposal was assigned an overall rating of outstanding under the technical subfactor. Id. at 3-4.

Corps Solutions was assigned a good rating under performance approach, with the TEB assigning four strengths and four weaknesses. Id. at 4-5. The firm's proposal also received a good rating for management approach with three strengths and no

³ Possible ratings for this factor were substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. Id. at 44.

⁴ Scope was to be evaluated on experience in the areas defined in the PWS. Complexity was to be evaluated on the required coordination, technical and managerial intricacy of efforts and their similarity to the solicitation. Magnitude was to be evaluated on "the dollar amount of work actually performed under the contract or contracts, individually or in the aggregate, during the relevant five-year period established by the solicitation." Id.

⁵ A good rating was defined as, "[p]roposal meets requirements and indicates a thorough approach and understanding of the requirements. Proposal contains strengths which outweigh any weaknesses. Risk of unsuccessful performance is low." RFP at 43. An outstanding rating was defined as "[p]roposal meets requirements and indicates an exceptional approach and understanding of the requirements. Strengths far outweigh any weaknesses. Risk of unsuccessful performance is very low." Id.

weaknesses identified by the TEB. Id. at 6. Corps Solutions’ proposal received an overall technical rating of good. Id.

The contracting officer concurred with the TEB’s evaluation and ratings for both proposals. AR, exh. 14, Contract Review Board Presentation, at 11. She also evaluated each offeror’s past performance and assigned each proposal a composite overall non-price rating. The results of the evaluation were as follows:

	Corps Solutions	ITA
Performance Approach	Good	Outstanding
Management Approach	Good	Good
Overall Technical Approach	Good	Outstanding
Past Performance	Substantial Confidence	Substantial Confidence
Overall Rating	Good	Outstanding
Price	\$12,224,468.66	\$12,364,324.00

See generally id.

The contracting officer determined that ITA’s proposal represented the best value to the government, emphasizing the firm’s superior performance approach and her greater confidence in ITA’s expected performance based on the firm’s past performance. Id. at 16. With respect to performance approach, the contracting officer noted ITA’s well-documented live, virtual, and constructive (LVC) training scenario experience, its familiarity with NECC’s Adaptive Force Package (AFP) deployment concept, its process for ensuring maintenance of instructor qualifications, and its existing standard operating procedure (SOP) for the operations center as distinguishing factors between its proposal and the proposal offered by Corps Solutions. Id. While noting some similarities between the two firms’ proposals, the contracting officer noted several weaknesses in Corps Solutions’ performance approach, including lack of an instructor quality control plan and operations center SOP, as well as lack of detailed treatment of its LVC capabilities. Id. at 17.

The contracting officer determined that the firms were essentially equal as to management approach; noting ITA’s strong record of retaining personnel and a presence on both coasts, and Corps Solutions’ strong management team and quality management plan. Id. Finally, under the past performance subfactor, the contracting officer recognized substantial confidence in each offeror, but noted greater confidence in ITA’s ability to perform the contract based on the firm’s performance on more relevant contracts. Id.

The agency made award of a task order to ITA, and this protest followed.

DISCUSSION

Corps Solutions first challenges the evaluation of proposals under the technical approach subfactor. The protester challenges two of the four weaknesses assigned to its proposal under the performance approach element, as well as four strengths the firm asserts were unreasonably assigned to ITA's proposal under the technical approach subfactor.⁶ Protest at 6-11; Protester's Comments at 8-9. The protester also challenges the evaluation of its proposal under the past performance subfactor. Corps Solutions concludes that, but for the alleged evaluation errors, its proposal would have been rated higher under the technical approach subfactor, and been given more favorable consideration under the past performance subfactor. The protester asserts that, under such circumstances, a best-value tradeoff could have resulted in a different award decision. Protest at 13-14.

The evaluation of an offeror's proposal is a matter within the agency's discretion. MVM, Inc., B-407779, B-407779.2, Feb. 21, 2013, 2013 CPD ¶ 76 at 4. A protester's disagreement with the agency's judgment in its determination of the relative merit of competing proposals does not establish that the evaluation was unreasonable. Id. In reviewing a protest that challenges an agency's evaluation of proposals, our Office will not reevaluate the proposals, but will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Id. As discussed below, Corps Solutions has given us no basis to find the agency's evaluation unreasonable.

ITA's Technical Evaluation

We consider first Corps Solutions' challenges to the evaluation of ITA's technical proposal. The protester challenges the assignment of two strengths to ITA under the performance approach element for the firm's comprehensive knowledge and understanding of ETG's requirements and processes as they pertain to NECC's overall mission, and for the firm's comprehensive LVC plan. Protester's Comments at 8. Corps Solutions argues that these strengths are based on ITA's particular knowledge of NECC procedures, which are not disclosed in the solicitation, and thus constitute unstated evaluation criteria. Protester's Comments at 8. Corps Solutions also argues that the strength associated with ITA's comprehensive knowledge and understanding of the agency's mission is inappropriate since

⁶ In its initial protest, Corps Solutions also challenged the assignment of a weakness to its proposal under the performance approach element for failing to include a quality control plan. Protest at 11-12. The agency responded to this argument in the agency report, however, the protester failed to rebut or otherwise address the agency's arguments in its comments. Legal Memorandum at 19-21; see generally Protester's Comments. We conclude that Corps Solutions abandoned this protest ground and it will not be considered further. IntelliDyne, LLC, B-409107 et al., Jan. 16, 2014, 2014 CPD ¶ 34 at 3 n.3.

performance approach evaluates what an offeror will do to satisfy the requirements, not an offeror's special knowledge gained as an incumbent contractor. Id.

Our Office recognizes that an offeror may possess unique information, advantages, and capabilities due to its prior experience under a government contract, including performance as the incumbent contractor. An agency is not required to equalize competition to compensate for such an advantage, unless there is evidence of preferential treatment or other improper action. AXIS Management Group, LLC, B-408575.2, May 9, 2014, 2014 CPD ¶ 150 at 3. Further, an agency may properly consider such advantages, where appropriate, in accordance with the evaluation criteria. See e.g., Honeywell Tech. Solutions, Inc., B-400771, B-400771.2, Jan. 27, 2009, 2009 CPD ¶ 49 at 13 (finding reasonable the agency's evaluation of the protester's advantages as an incumbent).

We find no reason to object to the agency's evaluation in this regard. The simple fact that the agency favorably evaluated ITA's knowledge and experience as the incumbent contractor does not, in and of itself, render the evaluation unreasonable so long as the evaluation criteria contemplate such consideration. That is the case here. Under the performance approach element, the agency sought not only to evaluate how offerors would successfully perform the solicitation's requirements, but also their understanding of, and capability to meet those requirements. RFP at 41. Such considerations reasonably contemplate the application of ITA's incumbent knowledge and experience to its proposed approach to perform the requirements of the contract.

Likewise, we do not view the agency's favorable evaluation of ITA's performance approach, which details the firm's knowledge and experience with particular agency procedures, as a use of unstated evaluation criteria. The RFP informed offerors that proposals would be evaluated on their approach to perform the PWS requirements, which set forth explicit tasks to be performed under the contract. The agency properly evaluated ITA's approach to completing the explicit tasks set forth in the PWS, including consideration of ITA's knowledge of agency procedures, which the firm set forth in its approach to completing the PWS requirements.

Corps Solutions also challenges two strengths assigned to ITA's proposal under the management approach element, one for demonstrated stability of personnel through retention, and one for having personnel currently in place and established relationships, which will decrease transition time. The protester argues that the assignment of these strengths were unreasonable and based on unstated evaluation criteria. Protester's Comments at 9. We disagree.

The management approach element considers an offeror's demonstrated capability to provide cross-trained personnel to accomplish the RFP requirements. Consideration of ITA's capability to retain such personnel is at least logically encompassed by, or reasonably related to, this stated evaluation criterion. See

Design Eng'g, Inc., B-408336.3, May 6, 2014, 2014 CPD ¶ 144 at 7. Therefore, the agency's consideration of ITA's demonstrated stability of personnel through retention was reasonable. We also conclude that it was reasonable for the agency to consider the impact of ITA's current work and established relationships on transition time. Management approach considers the management controls, techniques and procedures an offeror will use to ensure required work is performed in a timely, responsive, professional, and efficient manner. RFP at 41. As a transition period is an explicit PWS requirement, it was reasonable for the agency to consider this aspect of ITA's proposal, particularly with respect to timely performance of work, as contemplated by this element. RFP at 10.

Protester's Technical Evaluation

Corps Solutions challenges two of the four weaknesses the TEB assigned to its proposal under the performance approach element. The first challenged weakness criticizes the firm's proposal for lack of detail on how it has or will construct and execute LVC events, and whether the protester understands the complexities of hosting LVC "to/for NECC forces, as they integrate with themselves and other fleet and joint forces." AR, exh. 14, Contract Review Board Presentation, at 8.

Corps Solutions argues variously that this weakness is unreasonable because it contradicts a separate strength assigned to the firm's proposal under the same element; the prior TEB noted as a strength the firm's understanding of LVC training; and the RFP does not require an offeror to describe its understanding of or approach to performing LVC. Protest at 8-11. In response to the agency report, the protester also argues that the agency relied on an unstated evaluation criterion because the weakness was based on integration issues known to the agency, but not disclosed to offerors in the solicitation. Protester's Comments at 1-4.

The agency states that the strength assigned to Corps Solutions' proposal for a thorough and comprehensive exercise methodology is not inconsistent with the noted weakness for lack of detail with respect to the firm's LVC approach. Legal Memorandum at 15. The agency asserts that, while Corps Solutions was credited for its thorough and comprehensive exercise methodology, the offered approach was an industry standard process. Id. The agency states that the weakness relates specifically to Corps Solutions' failure to detail its approach to LVC, including integration. We agree with the agency that the assigned strength and weakness are not inconsistent, as the assigned strength recognizes the overall merit of Corps Solutions' proposed approach to exercise methodology, while the assigned weakness addresses a perceived lack of detail with respect to LVC approach. Also, the agency's conclusions are reasonably supported by review of the firm's proposal.

With respect to the protester's second argument, the agency asserts that there is nothing *per se* unreasonable about a technical evaluation panel convened for a reevaluation, pursuant to corrective action, reaching different conclusions from the

initial consensus evaluation. Legal Memorandum at 16. We agree. Our Office has long recognized that different evaluation panels may reasonably reach different conclusions regarding the quality of an offeror's proposal given the subjective judgment necessarily exercised by evaluators. Constellation NewEnergy, Inc., B-409353.2, B-409353.3, July 21, 2014, 2014 CPD ¶ 219 at 9.

As to the protester's third argument--that the firm was not required to describe its understanding of or approach to performing LVC--the RFP clearly envisions the evaluation of such considerations. The performance approach element notifies offerors that they will be evaluated on "their ability to present a performance approach that clearly describes [sic] the Offeror will successfully accomplish the requirements of the solicitation, including the PWS." RFP at 41. Offerors were also required to "demonstrate understanding of and capability to meet all of the requirements of the PWS." Id. Section 4.0 of the PWS includes requirements identification, development, maintenance, and conduct of LVC training and assessment. RFP at 4. Section 4.0 also contemplates exercise scenario development, execution, assessment, and training all in the context of LVC. Id. Six of the ten discrete tasks specified in section 4.0 explicitly relate to LVC. Id. Given these facts, we conclude that it was reasonable for the agency to evaluate Corps Solutions' understanding of and approach to performing LVC.

The protester finally argues, with respect to this weakness, that the agency improperly utilized an unstated evaluation criterion. Corps Solutions asserts that the basis for the weakness was its failure to address integration issues experienced by the agency, which were not disclosed in the solicitation. Protester's Comments at 4. We do not agree.

The weakness in question was assigned because the evaluators concluded that Corps Solutions' proposal lacked detail on how the firm constructs and executes LVC events. AR, exh. 13, Technical Evaluation, at 5. The assessed weakness states that while LVC is mentioned throughout the protester's proposal, it does not explain how Corps Solutions has or will do LVC. Id. The weakness also states that it is not clear from the protester's proposal that the firm understands the complexities of hosting LVC to/for NECC forces, as they integrate with themselves and other fleet and joint forces. Our review of Corps Solutions' proposal and the agency's evaluation documents gives us no basis to question the reasonableness of the agency's evaluation in this regard.

The second challenged weakness concerns Corps Solutions' approach to satisfy the personnel/qualifications requirements set forth in section 5.0 of the PWS. The protester argues that the agency's assignment of this weakness was erroneous and unreasonable in light of the proposal's "detailed recitation of the qualifications of the individuals it proposed for contract staffing and surge support." Protest at 7. The protester also argues that the agency improperly considered the requirements set forth in PWS section 5.0 under the more important performance approach element,

instead of the less important management approach element, where the protester asserts such considerations appropriately belonged. Id.

The performance approach element anticipated considering whether an offeror's approach clearly described how it would successfully accomplish the requirements of the solicitation, including the PWS, as well as an offeror's demonstrated understanding of, and ability to meet, all of the requirements of the PWS. RFP at 41. Reasonably encompassed within this consideration would be whether an offeror's performance approach described how it would successfully meet the personnel/qualification requirements set forth in PWS section 5.0, as well as its demonstrated understanding of, and ability to meet, these requirements. In contrast, the management approach element envisioned consideration of management controls, techniques and procedures to be used in performance of the task order, including proposed staffing plans and demonstrated capability to provide skilled, cross-trained personnel to perform the requirements of the RFP. Id.

As our Office has held, an agency may properly consider an element of a proposal under more than one evaluation criterion where the element is relevant and reasonably related to each criterion under which it is considered. UNICCO Gov't Servs., Inc., B-409111 et al., Jan. 23, 2014, 2014 CPD ¶ 55 at 11 n.6. Thus, we conclude that the requirements set forth in PWS section 5.0 could be properly considered under both the performance approach and management approach elements, albeit with a view towards separate and distinct considerations.

With respect to the assigned weakness, the TEB expressed concern that Corps Solutions' approach to addressing the requirements of PWS section 5.0 was not fully described in its proposal. AR, exh. 14, Contract Review Board Presentation, at 8. The TEB noted that the protester's proposal provided a list of qualifications of a few senior personnel and "a long list of names" in another area of its proposal. Id. The agency explains that while the firm's proposal described the qualifications of three management personnel and three personnel representing surge capacity, the proposal did not provide detail of the relevant qualifications of proposed instructor personnel. AR, exh. 15, TEB Memorandum, at 5.

We conclude that the TEB's concern regarding the lack of detail in Corps Solutions' proposal is reasonable and supported by the record. Whether the assigned weakness relates more to the considerations under the performance approach or management approach element is a closer question. We conclude that the agency reasonably evaluated PWS section 5.0 under performance approach, as the weakness reasonably relates to how the protester would successfully meet the qualification requirements set forth in the PWS. However, even if the agency assigned the weakness under the incorrect element, the protester has not established that this error resulted in prejudice to its competitive posture.

Past Performance

Corps Solutions also challenges the agency's evaluation of the firm's past performance, arguing that two of its submitted past performance references should have received "relevant" ratings, instead of "somewhat relevant" ratings. Protest at 12-13. The protester argues that the agency diverged from the stated evaluation criteria by requiring that each past performance reference demonstrate performance with the entire scope of work in order to be deemed relevant as to scope. Id. However, this is exactly what the stated evaluation scheme contemplates.

The past performance subfactor states that each past performance reference will be evaluated to determine its individual scope, complexity, and magnitude relative to the instant requirement. RFP at 42. Scope will be evaluated on experience in the areas defined in the PWS. Id. Thus, the RFP contemplated that each past performance reference would be evaluated against the areas defined in the PWS to assess relevancy as to scope. The record shows that the scope of the protester's first past performance reference was relevant to PWS section 4.0, but was not relevant to PWS section 4.1, which addressed teaching requirements. The protester's second past performance reference, on the other hand, was relevant to PWS section 4.1, but showed limited work relevant to PWS section 4.0. Thus, under the stated evaluation scheme, the agency reasonably assigned somewhat relevant ratings as to scope to each of these past performance references.⁷

The protest is denied.

Susan A. Poling
General Counsel

⁷ The protester also argues that the agency erred in assigning "somewhat relevant" ratings to these two past performance references with respect to complexity. We have considered the protester's argument in this regard, and have no basis to find the agency's evaluation unreasonable.