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## Decision

**Matter of:** Logistics 2020, Inc.

**File:** B-408543; B-408543.3

**Date:** November 6, 2013

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### DIGEST

1. Protest is sustained where the agency improperly abandoned the solicitation's stated evaluation scheme, which provided for a qualitative evaluation of proposed personnel, by adopting a review that assessed only whether the proposed personnel met applicable requirements.

2. Protest that the agency failed to evaluate the realism of proposed prices is sustained where the record does not show that the agency conducted a price realism analysis, as required by the solicitation.

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### DECISION

Logistics 2020, Inc., of Chester, Virginia, protests the award of a contract to Advanced C4 Solutions, Inc., (AC4S), of Tampa, Florida, issued by the National Geospatial-Intelligence Agency (NGA) under request for proposals (RFP) No. HM0210-12-R-0002 for NGA's deployed logistics services 2 program. Logistics, the incumbent contractor, argues that the agency's evaluation of proposals, and its selection of AC4S for award, were unreasonable and inconsistent with the terms of the solicitation.

We sustain the protest.

The RFP was issued as a total small business set-aside on October 5, 2012, to acquire logistical support services on behalf of NGA's expeditionary operations

office for NGA personnel in deployed and crisis environments in the Middle East and in other places around the world. RFP, Statement of Work (SOW) at 3. The SOW required the contractor to provide a full range of logistics support, including: planning, transportation, supply, warehouse, armory, facility maintenance, escort, asset management/property accountability, fuel, billeting, and food services. Id.

The solicitation anticipated the award of a time-and-materials contract for a base year with four 1-year options. RFP at 63, 120. The solicitation advised that award would be made to the offeror submitting the proposal that provided the best value to the government, based upon consideration of the following evaluation factors: (1) technical/management, (2) past performance, (3) security, and (4) cost/price. Id. at 121. The solicitation further provided that the technical/management factor was comprised of the following evaluation subfactors, listed in descending order of importance: (1) logistics services approach, (2) appropriately proposed personnel, and (3) program control. Id. The RFP stated that the technical/management factor was slightly more important than the past performance factor, and the two factors together were significantly more important than cost/price. Id. The security factor was pass/fail. Id.

The evaluation criteria for the technical/management factor required an offeror to explain its approach to providing logistics services, demonstrate that its proposed personnel would meet the minimum skills qualifications, and describe its program control processes. Id. at 70. As relevant here, the RFP stated that the three technical/management subfactors would be assigned one of five adjectival ratings: outstanding, good, acceptable, marginal, or unacceptable. Id. at 122. The solicitation also advised that offerors should assume that the agency had no prior knowledge of an offeror's facilities and experience, and that the agency would base its evaluation solely on the information presented in an offeror's proposal. Id. at 66.

As relevant here, the personnel subfactor of the technical/ management factor required an offeror to identify the specific personnel proposed by position and location. Id. at 71. The solicitation also required an offeror to describe its process for selecting qualified personnel. Id. The solicitation stated that the agency would evaluate "the extent that the Offeror has proposed personnel who are capable of performing the work" and who "meet the skills, experience, and security clearance requirements" of the solicitation's minimum skills matrix. Id. at 122.

With respect to past performance, the solicitation explained that the agency would evaluate whether an offeror's relevant past and present performance provides confidence regarding the offeror's expected performance and customer satisfaction.<sup>1</sup> Id. at 123. The RFP emphasized that the importance of past

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<sup>1</sup> In addition to the technical/management factor and subfactor scores described above, the RFP advised that the past performance factor would assess ratings of  
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performance in supporting U.S. government operations in Iraq, Afghanistan, and other crisis environments, “cannot be overstated.” Id.

The solicitation stated that cost/price would be evaluated for completeness and reasonableness to determine the offeror’s understanding of the requirements, as well as to assess the validity and credibility of the basis of estimate (consistent with the technical approach). Id. at 123. The solicitation also provided that the government “may reject any proposal” that is “unrealistically high or low cost when compared to the Government estimate” such that the proposal is deemed to reflect “an inherent lack of competence or failure to comprehend the requirements and risks of the program.” Id. at 120.

The agency received proposals from seven offerors, including Logistics and AC4S, in response to the solicitation. Agency Report (AR), Tab 16B, Final Source Selection Decision, at 2. Based upon the agency’s initial evaluation, six proposals--including those from the protester and the awardee--were included in the competitive range. Id. The agency opened discussions with the six offerors and accepted final proposal revisions. Id. The agency’s final evaluation of the revised proposals resulted in the following ratings for Logistics and AC4S:

	<b>LOGISTICS</b>	<b>AC4S</b>
<b>TECHNICAL/MANAGEMENT</b>	GOOD	GOOD
Logistics Services Approach	Good	Good
Personnel	Good	Good
Program Control	Good	Good
<b>PAST PERFORMANCE</b>	<b>SUBSTANTIAL CONFIDENCE</b>	<b>SATISFACTORY CONFIDENCE</b>
<b>SECURITY</b>	<b>PASS</b>	<b>PASS</b>
<b>COST/PRICE</b>	<b>\$42,608,456</b>	<b>\$34,699,095</b>

Id. at 3; AR, Tab 15, Award Decision Recommendation, at 25-26, 37-38.

The agency evaluators assigned Logistics’ proposal and AC4S’s proposal ratings of good under each of the technical/management factor subfactors, and ratings of good for the factor overall. AR, Tab 15, Award Decision Recommendation, at 37. For Logistics, the agency assessed three minor strengths under the logistics services approach subfactor; a “meets the standard” rating under the personnel subfactor; and one major strength and one minor strength under the program control subfactor. Id. at 61. For AC4S, the agency assigned one major strength,

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substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. RFP at 122.

three minor strengths, and one major weakness under the logistics services approach subfactor; a “meets the standard” rating under the personnel subfactor; and one minor strength under the program control subfactor. Id.

The source selection authority reviewed the evaluation team reports, and conducted a tradeoff analysis between the four most highly rated proposals, which included Logistics’ and AC4S’s proposals. AR, Tab 16B, Final Source Selection Decision, at 3-16. With regard to the tradeoff between Logistics and AC4S, the source selection authority recognized the various strengths each offeror proposed in its technical/management proposal. Id. at 13-14. The source selection authority agreed with the ratings assigned to Logistics’ past performance (substantial confidence), and AC4S’s past performance (satisfactory confidence). Id. at 14. The source selection authority noted that Logistics received highly favorable ratings for past performance, and had a reputation within the intelligence community for providing logistics support using skilled personnel with a solid work ethic. Id.

Ultimately, however, the source selection authority concluded that the significant cost advantage of AC4S’s proposal (approximately 19 percent lower than Logistics’ price), combined with its good technical/management rating and satisfactory confidence assessment for past performance, outweighed the non-cost advantages of Logistics’ proposal. Id. The tradeoff decision explained that the discriminators between AC4S and Logistics primarily related to past performance, but that “nothing offered in the Non-Cost Factors warranted the additional cost being proposed by Logistics.” Id. at 14, 16.

The agency awarded a contract to AC4S on July 2, 2013. Following a debriefing, Logistics filed a protest with our Office on July 15.

## DISCUSSION

Logistics’ protest challenges virtually every aspect of NGA’s evaluation and source selection decision. Based on our review of Logistics’ arguments, we conclude that the agency improperly abandoned the stated evaluation scheme when reviewing proposals under the personnel subfactor of the technical/management factor, and failed to document whether it conducted a reasonable price realism analysis. With regard to the protester’s other challenges we find that the agency’s evaluation was reasonable and consistent with the solicitation criteria.<sup>2</sup>

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<sup>2</sup> For example, we find no merit to Logistics’ challenge to NGA’s finding that AC4S is a responsible contractor. In general, our Office does not consider challenges to affirmative determinations of responsibility, except in circumstances not present here. See Bid Protest Regulations, 4 C.F.R. § 21.5(c) (2013).

In reviewing an agency's evaluation, we will not reevaluate proposals; instead, we will examine the evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with procurement statutes and regulations. The Eloret Corp., B-402696, B-402696.2, July 16, 2010, 2010 CPD ¶ 182 at 12. An offeror's mere disagreement with the agency's evaluation is not sufficient to render the evaluation unreasonable. Id.

### Technical/Management Evaluation

Logistics first contends that NGA improperly abandoned the stated evaluation scheme when reviewing the proposals of Logistics and AC4S under the technical/management factor. We agree. Based upon our review of the contemporaneous record, we find that the agency failed to follow the solicitation's stated scheme in evaluating proposals under the personnel subfactor, and we sustain the protest on this basis. We find no merit to Logistics remaining challenges to the agency's technical/management evaluation.<sup>3</sup>

As discussed above, the solicitation stated that the agency would assign one of five adjectival ratings to proposals under each of the three subfactors of the technical/management factor: outstanding, good, acceptable, marginal, or unacceptable. The solicitation provided that the personnel subfactor would be evaluated based upon "the extent that" the proposed personnel meet the solicitation's requirements. RFP at 122.

In its report on this protest, NGA acknowledged that the highest assessment an offeror could achieve under the personnel subfactor was "Meets the Standard." Supp. AR (Sept. 5, 2013), at 16. In this regard, the agency concluded that it would not assign any minor, major, or significant strengths under this subfactor, and

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<sup>3</sup> For example, Logistics argues that the agency unreasonably assigned good, rather than outstanding, ratings to its proposal under the logistics services approach and the program control subfactors. In this regard, although the protester repeatedly asserts that its proposal should have received strengths based upon its experience in performing the services under the incumbent contract, the agency notes that the technical/management factor addressed an offeror's proposed approach, rather than its past performance. An offeror's technical evaluation is dependent upon the information furnished; there is no requirement for an agency to favor a firm solely on the basis of its incumbent status. HealthStar VA, PLLC, B-299737, June 22, 2007, 2007 CPD ¶ 114 at 2. Here, we conclude that the agency reasonably relied upon the information provided in Logistics' proposal in assigning a rating under these subfactors; although the protester disagrees with the agency's evaluation, the protester's arguments provide no basis to sustain the protest.

instead would only assign weaknesses if an offer failed to meet the solicitation's requirements. Id. The agency further explained that, in its view, "[a]n offeror may propose personnel that are above the solicitation requirements, but that does not [mean] those people will perform better." Id. Further, the agency "did not give more credit for people [with] more experience/education because more experience/education was not considered to provide any advantage for the employee performance of the positions under this [contract]." Id. For these reasons, the agency explained, the maximum rating an offeror could receive for this evaluation subfactor was "good," which denoted that the offeror had met the minimum requirements; offerors were not eligible to receive an outstanding rating, as indicated in the solicitation. Id. at 16.

Where, as here, the RFP provides for award on a best value basis, as opposed to selection of the lowest-priced, technically acceptable offer, the evaluation of proposals cannot be limited to determining whether a proposal is merely technically acceptable. Systems Research & Applications, Corp.; Booz Allen Hamilton, Inc., B-299818 et al., Sept. 6, 2007, 2008 CPD ¶ 28 at 24. Rather, proposals must be evaluated to identify their relative qualities under the stated evaluation factors, including the degree to which technically acceptable proposals exceed the stated minimum requirements, or will better satisfy the agency's needs. Id.

When evaluation criteria are written in the manner utilized here by the agency, and where proposals are to be evaluated for technical merit on a qualitative basis, an offeror can reasonably expect that a proposal that exceeds the minimum requirement will receive a more favorable evaluation than one that merely meets the requirement. See Trijicon, Inc., B-244546, Oct. 25, 1991, 91-2 CPD ¶ 375 at 5. Based upon our review, we conclude that the terms of this solicitation clearly advised offerors that technically superior proposals would be favored over proposals that merely met the minimum solicitation requirements. See RFP at 122.

In addition, our review of the record, and the agency's own statements, lead us to conclude that the agency's assessment under the personnel subfactor failed to follow the solicitation's evaluation scheme. Specifically, the RFP did not advise offerors of the agency's view that an offer to exceed the solicitation's personnel requirements provided no benefit to the government, and did not advise offerors they would not receive credit for exceeding the minimum requirements of the solicitation. As a result, the agency's evaluation did not consider whether the protester's proposal offered any advantages based on the experience and capabilities of Logistics' proposed staff, or whether this experience provided a basis to discriminate between Logistics' and AC4S's proposals under this subfactor. Instead, the agency simply found that both offerors met the minimum requirements. As a result, the proposals were viewed as equal in technical merit, despite any differences that may have existed in this area.

We also find that Logistics was prejudiced by the agency's improper evaluation. As discussed above, the agency did not advise offerors that it would not assign a higher rating for a proposal that exceeded the solicitation's minimum requirements regarding personnel. Since the agency failed to consider the relative merits of the offerors' proposed personnel, we have no basis to conclude whether this review would or would not have changed the agency's view of this competition. See Kellogg, Brown & Root Servs., Inc.--Recon., B-309752.8, Dec. 20, 2007, 2008 CPD ¶ 84 at 5. Accordingly, we sustain the protest on this basis.

### Price Realism

Next, Logistics challenges NGA's evaluation of AC4S's proposed price, asserting that the agency failed to consider whether the awardee's price was unrealistically low.<sup>4</sup> As discussed below, we find that the solicitation required the agency to conduct a price realism analysis, and that the record does not demonstrate whether the agency reasonably conducted such an analysis. We therefore sustain the protest on this basis.

First, as our decisions make clear, price reasonableness and price realism are distinct concepts. The purpose of a price reasonableness review is to determine whether the prices offered are too high, as opposed to too low. Sterling Servs., Inc., B-291625, B-291626, Jan. 14, 2003, 2003 CPD ¶ 26 at 3; WorldTravelService, B-284155.3, Mar. 26, 2001, 2001 CPD ¶ 68 at 4 n.2. Arguments that an agency did not perform an appropriate analysis to determine whether prices are too low, such that there may be a risk of poor performance, concern price realism, not price reasonableness. C.L. Price & Assocs., Inc., B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3; SDV Solutions, Inc., B-402309, Feb. 1, 2010, 2010 CPD ¶ 48 at 4.

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<sup>4</sup> Logistics' protest makes repeated reference to "cost reasonableness" and "cost realism" in asserting that the agency failed to consider the realism of the offerors' proposed prices. Agencies are required to perform a cost realism analysis when the solicitation anticipates the award of a cost-reimbursement contract. Federal Acquisition Regulation (FAR) § 15.404-1(d)(2). Where, as here, a solicitation anticipates award of a time-and-materials contract with fixed-price, fully-burdened labor rates, there is no requirement that an agency conduct a cost realism analysis, in the absence of a solicitation provision requiring such an analysis. Ball Aerospace & Tech. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at n.7. Despite the protester's misuse of the FAR terminology, the substance of the protester's arguments clearly refers to the agency's obligation to consider whether AC4S's proposed price was unrealistically low, and therefore posed a risk to successful contract performance.

Where, as here, an RFP contemplates the award of a fixed-price contract, or a fixed-price portion of a contract, an agency may provide in the solicitation for the use of a price realism analysis for the limited purpose of measuring an offeror's understanding of the requirements or to assess the risk inherent in an offeror's proposal. Ball Aerospace & Tech. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. Our review of a price realism analysis is limited to determining whether it was reasonable and consistent with the terms of the solicitation. Smiths Detection, Inc.; Am. Sci. & Eng'g, Inc., B-402168.4 et al., Feb. 9, 2011, 2011 CPD ¶ 39 at 17. The nature and extent of an agency's price realism analysis are matters within the agency's discretion. Star Mountain, Inc., B-285883, Oct. 25, 2000, 2000 CPD ¶ 189 at 6.

Here, although the solicitation did not expressly provide for a price realism analysis under the price/cost factor, the RFP nonetheless informed offerors that the agency "may reject any proposal that is evaluated to be ... unrealistically high or low cost when compared to the Government estimates such that the proposal is deemed to reflect an inherent lack of competence or failure to comprehend the requirements and risks of the program." RFP at 120. Given the solicitation's express statement that proposals would be evaluated to determine if prices were "unrealistically high or low," we see no basis for any conclusion other than that the agency committed itself to a review of price realism. See Esegur-Empresa de Seguranca, SA, B-407947, B-407947.2, Apr. 26, 2013, 2013 CPD ¶ 109 at 4 (where the solicitation established that the agency would evaluate whether offeror's prices were unrealistically low, agency was required to conduct a price realism analysis). Moreover, the agency contends that it complied with the solicitation's requirement to conduct a price realism analysis. AR (Aug. 14, 2013), at 16. In this regard, the agency states that the cost/price team evaluated each offeror's proposed prices, including labor rates and "other direct cost/prices." Id. The agency explains that the evaluation included consideration of market prices, Defense Contract Audit Agency data, and comparisons between the offerors' proposed prices. Id. The agency also calculated a standard deviation for the offerors' labor rates, which identified whether an offeror's rates were high or low in relation to the average. Id.

Notwithstanding the evaluations described above, there is nothing in the record here to show that the agency considered whether the prices here were too low to support the offeror's proposed technical approach. In this regard, the evaluation documents state that "[e]ach proposal was evaluated for reasonableness and completeness," that the agency "assessed the reasonableness of the proposed cost/price," and that "completeness was evaluated by assessing the responsiveness of the offeror in providing cost data based on the requirements of the RFP." AR, Tab 13, Source Selection Evaluation Report, at 5-6.

While the record here reflects that the agency considered whether the offerors' proposed labor rates were higher or lower than the average for all offerors, the record does not show whether the agency evaluated the realism of the awardee's

proposed rates, that is, whether they posed a risk to successful performance. For example, as discussed above, the agency's cost/price evaluation of AC4S compared the rates proposed by AC4S for each of the ten labor categories to rates proposed by the other offerors, finding that "[DELETED] labor categories" were "[DELETED] below the standard deviation threshold." AR, Tab 10D, Logistics Cost/Price Evaluation at 18. However, despite this evaluation, the record does not demonstrate that the agency considered whether Logistics' below average rates were realistic for the work required. Id. Instead, the agency simply states that, based upon a review of the offeror's final proposal revision, it concluded that the awardee's overall cost/price was reasonable and complete. Id. Because the agency's documentation of its cost/price analysis referred only to reasonableness and completeness, but offered no conclusion as to realism, we cannot conclude that the agency conducted an evaluation of the realism of the awardee's proposed prices.<sup>5</sup> See Network Innovations, Inc., B-408382, B-408382.2, Sept. 4, 2013, 2013 CPD ¶ 220 at 5 (price reasonableness and completeness are different analyses than price realism); Phoenix Mgmt., Inc., B-406142.3, May 17, 2012, 2012 CPD ¶ 154 at 7 (same). Accordingly, we sustain the protest on this basis.

## CONCLUSION

In sum, we conclude that NGA abandoned the solicitation's evaluation scheme where it failed to consider whether the offerors' proposals exceeded the requirements of the personnel subfactor. We also find that the agency failed to document whether it evaluated the realism of the offerors' proposed prices, as required by the solicitation.

## RECOMMENDATION

We recommend that NGA reevaluate proposals in a manner that is consistent with the solicitation's evaluation criteria and properly document its evaluation. In the alternative, if the personnel subfactor does not reflect accurately the agency's requirements--that is, if the agency does not intend to credit offerors for exceeding the minimum requirements for personnel--the agency should amend the solicitation to reflect its actual requirements, obtain revised proposals, and conduct a new evaluation.

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<sup>5</sup> Similarly, the agency's comparison of AC4S's proposed price to the independent government estimate merely found that the price was "fair and reasonable" and did not address whether the proposed price was realistic. See RFP at 120; AR, Tab 10D, AC4S Cost/Price Evaluation, at 18.

Upon reevaluation of the technical proposals under either of the alternatives discussed above, and evaluation of the realism of the offerors' proposed prices, NGA should make and document a new price/technical tradeoff analysis. If AC4S's proposal is not found to reflect the best value to the government, the agency should terminate the contract for the convenience of the government and award a new contract to the offeror whose proposal provides the best value to the government. We also recommend that Logistics be reimbursed its costs of filing and pursuing the protest. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1) (2013). The protester's certified claims for such costs, detailing the time expended and costs incurred, must be submitted directly to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Susan A. Poling  
General Counsel