



## Decision

**Matter of:** PiperCoughlin, LLC

**File:** B-414352.2

**Date:** April 17, 2018

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### DIGEST

Source selection authority's (SSA) disagreement with the conclusions of the source selection evaluation board and acceptance of the conclusions of the source selection advisory council regarding the evaluation of the protester's proposal is unobjectionable, and does not show bias, where the SSA documented reasoned conclusions concerning the evaluation of the protester's proposal.

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### DECISION

PiperCoughlin, LLC, of Leesburg, Virginia, protests the award of a contract to McKellar Corporation, of Virginia Beach, Virginia, under request for proposals (RFP) No. W912L9-16-R-0003, issued by the Department of the Army, National Guard Bureau, for the Whole of Government Training Support Services and Deployment Program (WGTSSDP), which provides training support services for civil-service employees who deploy throughout the world as part of their civilian employment.

We deny the protest.<sup>1</sup>

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<sup>1</sup> Our Office did not issue a protective order in connection with this protest because PiperCoughlin elected not to retain counsel. A complete version of the agency report was provided to our Office, while a redacted version of the report was furnished to the protester. We have reviewed the entire unredacted record *in camera*. As much of the information reviewed by our Office is source selection sensitive and/or proprietary in nature, our discussion of the evaluation is necessarily limited.

## BACKGROUND

On August 30, 2016, the agency issued the solicitation in accordance with Federal Acquisition Regulation (FAR) part 15. The RFP contemplated a single-award, indefinite-delivery, indefinite-quantity (IDIQ) service contract utilizing fixed-price services contract line item numbers (CLINs) and cost-reimbursable CLINs for travel for a 1-year base period and four 1-year options. Agency Report (AR), Tab 3, RFP at 9 and 47. The agency issued the RFP as a set-aside for service-disabled veteran-owned small businesses (SDVOSB). Id. at 61. The agency issued three amendments to the solicitation. The solicitation provided for award on a best-value tradeoff basis considering the following non-price factors in descending order of importance: technical approach, management approach, and past performance, which, when combined are significantly more important than price.<sup>2</sup> Id. at 132-133. The technical approach factor included two subfactors, of equal importance: overall IDIQ approach and sample task order. Id. at 133. The management approach factor contained the following three subfactors in descending order of importance: management/staffing plan, proposed personnel, and quality control plan. Id. The RFP provided that the agency would evaluate an offeror's proposed price to ensure that it is "reasonable, realistic, complete and balanced." Id. at 139.

The agency received proposals from several offerors, including PiperCoughlin and McKellar, by the closing date of October 21. AR, Tab 2, Contracting Officer Statement (COS) at 2. After receipt of proposals, the agency states that there was an "extended delay" in the source selection and evaluation process as the contracting officer was assigned to a different job within the National Guard but ultimately was reassigned as the contracting officer for this procurement. Id.

The source selection evaluation board (SSEB), comprised of three evaluators, evaluated proposals with regard to the non-price factors. AR, Tab 24, SSEB Report. The SSEB documented its adjectival rating and the associated strengths, weaknesses, deficiencies, and uncertainties for each factor and subfactor for each proposal. The SSEB evaluated PiperCoughlin as outstanding under the technical approach and management approach factors, and evaluated its past performance as somewhat

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<sup>2</sup> The solicitation provided that the technical approach and management approach factors and their respective subfactors would each receive an adjectival rating of outstanding, good, acceptable, marginal or unacceptable. RFP at 137. For the past performance factor, the agency would evaluate each contractor's ongoing or prior contracts and assess a relevancy rating of very relevant, relevant, somewhat relevant or not relevant, and then assign a performance confidence assessment rating for each contractor of substantial confidence, satisfactory confidence, neutral confidence, limited confidence or no confidence. Id. at 139-140.

relevant with a performance confidence ranking of substantial confidence.<sup>3</sup> AR, Tab 24, SSEB Report at 41.

The source selection advisory council (SSAC) then conducted a comparative analysis of all of the proposals and documented its findings in a written report for the source selection authority (SSA). AR, Tab 25, SSAC Report. The SSAC, in its analysis, determined that the SSEB had assigned unwarranted strengths and elevated ratings to many offerors in several areas and adjusted ratings accordingly. *Id.* at 1. The SSAC rated PiperCoughlin as acceptable under the technical approach factor, good under the management approach factor, and assigned it a relevancy rating of very relevant and a performance confidence rating of substantial under the past performance factor.<sup>4</sup> AR, Tab 25, SSAC Report at 24.

The SSA reviewed the reports of the SSEB and the SSAC, and conducted his own analysis that was documented in the source selection decision (SSD). AR, Tab 26, SSD. The SSA determined that, in almost all instances, including the evaluation of Piper Coughlin, it concurred with the findings of the SSAC, rather than those of the SSEB. AR, Tab 26, SSD at 11, 34-36. The SSA concurred with the SSAC's ratings of PiperCoughlin's proposal as acceptable under the technical approach factor, good under the management approach factor, and assigned it a relevancy rating of very relevant and a performance confidence rating of substantial under the past performance factor. *Id.* at 31-33. The SSA determined that the protester's price was reasonable, realistic, balanced, and complete. *Id.* at 34.

The SSA determined that McKellar's proposal was the highest-rated proposal for non-price factors, the sixth lowest-priced proposal, and that its price of \$1,435,993 was fair, reasonable, balanced and realistic. *Id.* at 36-37. The SSA then documented his tradeoff analysis in the SSD by comparing McKellar's proposal with the five lower-priced proposals.<sup>5</sup> *Id.* at 38-44. On December 27, 2017, the agency made award to McKellar. COS at 1. This protest to our Office followed.

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<sup>3</sup> The SSEB did not evaluate price as part of its evaluation. AR, Tab 24, SSEB Report; Memorandum of Law (MOL) at 10.

<sup>4</sup> While the SSAC assigned PiperCoughlin lower ratings under the technical approach and management approach factors than those assigned by the SSEB, it raised the protester's past performance relevancy rating from that assigned by the SSEB. AR, Tab 25, SSAC Report at 24.

<sup>5</sup> Since the protester's proposal was in the group of proposals that were rated lower for non-price factors than McKellar's proposal, and proposed higher prices than McKellar's, it was not included in the tradeoff analysis.

## DISCUSSION

PiperCoughlin challenges numerous aspects of the agency's evaluation and resulting selection decision. The protester primarily challenges the differences in the findings between the SSEB and SSAC and contends that the SSA should have adopted the findings of the SSEB with regard to the evaluation of its proposal, rather than the SSAC's evaluation, which the protester argued was "subjective" and unreasonable. Comments at 3; Supp. Comments at 1. The protester further challenges the assignment of a weakness to its proposal under the sample task order approach subfactor of the technical approach factor due to an "apparent mismatch" in its staffing structure and proposed labor hours.<sup>6</sup> Comments at 4. PiperCoughlin also alleges that the agency was biased towards the awardee. Comments at 1. While we do not address each of the protester's allegations, we have considered all of the protester's arguments, and find that none provide a basis upon which to sustain the protest.<sup>7</sup>

In reviewing protests concerning an agency's evaluation of proposals, our Office will not reevaluate proposals, but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with stated evaluation criteria and applicable statutes and regulations. Sam Facility Mgmt., Inc., B-292237, July 22, 2003, 2003 CPD ¶ 147 at 3. A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

As set forth above, PiperCoughlin primarily focused on what it terms as the "discord" between the evaluation of its proposal performed by the SSAC and the SSEB. The protester argues that the SSA should have adopted the views of the SSEB, which, it contends, "more accurately reflect[ed] the strength[s]" of its proposal. Comments at 1.

The agency responds that the SSA's evaluation of proposals was documented in the SSD document, which demonstrated that the SSA acknowledged the differences

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<sup>6</sup> This weakness was assigned by the SSAC, and adopted by the SSA. AR, Tab 25, SSAC Report at 25; Tab 26, SSD at 32.

<sup>7</sup> For example, PiperCoughlin also argues that its proposal was deserving of an outstanding rating under the technical approach and management approach factors. Protest at 4. While Piper Coughlin contends that its proposal was sufficiently detailed to warrant higher ratings, its arguments amount to disagreement with the agency's judgment, which does not render the agency's conclusions unreasonable. Trofholz Techs., Inc., B-404101, Jan. 5, 2011, 2011 CPD ¶ 144 at 3-4. In addition, the protester contests the agency's determination that the awardee's price was realistic. Protest at 4. The agency addressed this issue in the agency report. MOL at 35-37. The protester did not meaningfully address the agency's response in its comments, and, under such circumstances, we view this argument as abandoned. Earth Res. Tech., Inc., B-403043.2, B-403043.3, Oct. 18, 2010, 2010 CPD ¶ 248 at 6

between the SSEB's report and the SSAC's report, and adopted the SSAC's evaluation with regard to the protester's proposal. AR, Tab 26, SSD at 31-34. The agency contends that regardless of any disagreement between the SSEB and the SSAC with regard to PiperCoughlin's evaluation, the record shows that the SSA made and documented his own reasonable determinations as to the evaluation of proposals. MOL at 3. We agree.

With regard to this protest, the SSA acknowledged that the SSEB assigned PiperCoughlin's proposal an outstanding rating, and the SSAC assigned it an acceptable rating, under the technical approach factor. AR, Tab 26, SSD at 31-32. In reaching this determination, the SSA, for example, stated that he agreed with the conclusion of the SSAC that Piper Coughlin's proposal lacked "sufficient detail" in its approach to addressing the sample task order. Id. In particular, the SSA concurred with the SSAC's assignment of a weakness for an "apparent mismatch[ ]" in PiperCoughlin's staffing structure and its proposed labor hours under the sample task order subfactor. AR, Tab 25, SSAC Report at 25; Tab 26, SSD at 32. The SSA also agreed with the determination of the SSAC that the overall factor rating should be acceptable. AR, Tab 25, SSAC Report at 24; Tab 26, SSD at 31-32.

Concerning the management approach factor the SSA stated that the SSEB rated the protester as outstanding, and that the SSAC assigned it a rating of good. Id. The SSA stated that he agreed with the SSAC's rating of good, rather than the SSEB's rating of outstanding because, in both instances, the protester's management/staffing and quality control plans were not tailored to the requirements and, thus, did not merit a rating higher than good. Id. at 33. The SSA concurred with the rating of the SSAC and the SSEB of substantial confidence for past performance and determined that the protester's price was reasonable, realistic, balanced, and complete. Id. at 33-34.

Despite the protester's insistence that the SSA was required to adopt the view of the SSEB, source selection officials are not bound by the evaluation judgments of lower level evaluators; they may come to their own reasonable evaluation conclusions. TruLogic, Inc., B-297252.3, Jan. 30, 2006, 2006 CPD ¶ 29 at 8. Here, as stated above, the SSA noted that the SSEB rated the protester's proposal higher under the technical approach factor and the management approach factor than the SSAC. AR, Tab 26, SSD at 31-33. The SSA then, in making his decision, documented his rationale for his concurrence with the SSAC's evaluation of the protester's proposal under the technical approach and management approach factors, as well as the higher ratings that the SSAC assigned to PiperCoughlin under the past performance factor. Id. While the protester disagrees with the SSA's analysis and conclusions, it has provided no basis for our Office to find that the SSA's findings were unreasonable. This protest ground is denied.

The protester next challenges the assignment of a weakness to its proposal under the sample task order subfactor of the technical approach factor for an "apparent mismatch[ ]" in PiperCoughlin's staffing structure and its proposed labor hours. AR, Tab 25, SSAC Report at 25; Tab 26, SSD at 32; Comments at 4. Stated more

specifically, the number of hours in PiperCoughlin's staffing plan did not match its price proposal. COS at 5. The protester contends that this "mismatch[ ]" should have been considered an "administrative error," rather than a weakness. Comments at 4. We find that although PiperCoughlin asserts that the agency misevaluated its proposal in this regard it has not demonstrated that the evaluation of this aspect of its proposal was unreasonable. Indeed, the agency noted that the "mismatching" in the protester's staffing structures and labor hours created "confusion" and "rais[ed] the risk of unsuccessful performance." AR, Tab 26, SSD at 32. We find the agency's evaluation reasonable in this regard.

Finally, the protester alleges that the "actions of the [a]gency throughout the source selection" revealed a bias towards McKellar. Supp. Comments at 2; Comments at 1. We find that the protester has failed to provide sufficient support for this bias allegation. In this respect, government officials are presumed to act in good faith, and we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7-9. Where a protester alleges bias, it must not only provide credible evidence clearly demonstrating bias against the protester or in favor of the awardee, but must also show that this bias translated into action that unfairly affected the protester's competitive position. Global Integrated Sec. (USA) Inc., B-408916.3 et al., Dec. 18, 2014, 2014 CPD ¶ 375 at 14. PiperCoughlin has not met that threshold here.

The protest is denied.

Thomas H. Armstrong  
General Counsel