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# Decision

**Matter of:** Akima Support Operations, LLC

**File:** B-415401; B-415401.2

**Date:** October 30, 2017

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Michael J. Farr, Esq., and Colonel C. Taylor Smith, Department of the Air Force, for the agency.  
Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protester’s assertion that the agency was required, in an unrestricted procurement, to reject the proposal of any offeror that is not affiliated with the incumbent contractor fails to provide an adequate basis for protest.

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## DECISION

Akima Support Operations, LLC, of Colorado Springs, Colorado, protests the Department of the Air Force’s award of a contract to Choctaw Defense Services (CDS), of Midwest City, Oklahoma, pursuant to request for proposals (RFP) No. FA3002-15-R-0025 to provide base operations support (BOS) services at Laughlin Air Force Base (AFB), Texas. Akima states that its “sister company” is the incumbent contractor, and maintains that the proposal of any offeror not so affiliated with the incumbent should have been rejected.<sup>1</sup>

We dismiss the protest.

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<sup>1</sup> Upon learning that another offeror ([redacted]) had submitted a proposal that was in line for award ahead of Akima’s proposal, Akima filed a supplemental protest asserting that [redacted]’s proposal should also have been rejected “on exactly the same basis” as the alleged basis for rejecting CDS’s proposal. Protester’s Opposition to Agency Motion to Dismiss (MTD)/Supplemental Protest, Oct. 16, 2017, at 2.

## BACKGROUND

The agency published the solicitation at issue in July 2016, seeking proposals to provide BOS services at Laughlin AFB.<sup>2</sup> The solicitation provided that award would be made on a lowest-priced, technically-acceptable (LPTA) basis, and established the following evaluation factors: price,<sup>3</sup> technical,<sup>4</sup> and past performance.<sup>5</sup> RFP at 41-48.

On or before the September 21, 2016 closing date, proposals were submitted by eight offerors, including CDS, [redacted], and Akima. Thereafter, the agency conducted two rounds of discussions; final revised proposals were submitted on August 16, 2017. The proposals of CDS, [redacted], and Akima were each evaluated as acceptable under the non-price evaluation factors, and each was found to have offered a price that was fair, reasonable, and balanced. CDS's proposal offered the lowest total evaluated price--\$41,550,496; [redacted] offered the second-lowest price--\$45,975,103; and Akima offered the third-lowest price--\$48,504,258. Agency MTD, at 2. On September 22, Akima was notified of its non-selection. This protest followed.

## DISCUSSION

Akima protests that, due to the solicitation's requirements, the agency was required to reject any offeror's proposal other than Akima's, asserting that "any non-incumbent

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<sup>2</sup> Laughlin AFB is home for an Air Force pilot training facility and is located near the Texas/Mexico border.

<sup>3</sup> With regard to price, the solicitation contained multiple fixed-price contract line item numbers (CLINs); provided that "[t]he Offeror shall propose . . . a whole dollar unit price . . . for each Firm-Fixed-Price (FFP) CLIN"; and stated "[t]he sum total of all FFP CLINs . . . will form the Offeror's Total Evaluated Price." RFP at 33. With regard to evaluation of price, section M of the solicitation provided that proposed prices would be evaluated to determine if they were "fair, reasonable and balanced." Id. at 42. The solicitation did not provide for a price realism evaluation.

<sup>4</sup> Under the technical factor, the solicitation established four subfactors: mobilization approach; technical approach; program management and staffing approach; and performance management/quality control approach. Id.

<sup>5</sup> The solicitation provided that the agency would consider the relevance of an offeror's past performance, and that past performance would be evaluated on an acceptable/unacceptable basis. Id. at 47-48. The solicitation further provided, consistent with Federal Acquisition Regulation (FAR) § 15.305(a)(2)(iv), that an offeror without a record of relevant past performance would be assigned an unknown/neutral rating and that, for purposes of this procurement, that rating "shall be considered 'acceptable'." Id. at 48.

contractor's proposal . . . could not be reasonably found to be technically acceptable.”<sup>6</sup> Protester's Opposition to Agency MTD/Supplemental Protest, Oct. 16, 2017, at 2.

More specifically, Akima first protests that CDS's and [redacted]'s proposals should have been rejected as unacceptable in light of the solicitation's mobilization requirements.<sup>7</sup> Akima speculates that CDS and [redacted] proposed to purchase certain required equipment from Akima's incumbent sister corporation, and maintains that “[the incumbent] does not have any intention to sell to CDS [or redacted] the equipment it has in place.” Protest at 9. Accordingly, Akima maintains that the agency was required to reject the other offerors' proposals for failing to provide a reasonable approach to meeting the solicitation's mobilization requirements.

Akima also asserts that CDS's and [redacted]'s proposals should have been rejected due to the solicitation's requirements regarding program management and staffing, speculating that their proposals “undoubtedly relied significantly upon hiring incumbent employees.” *Id.* at 9-11. Akima asserts that such a staffing approach should have been deemed unacceptable due to CDS's and [redacted]'s non-incumbent status and their lower proposed prices. *Id.* In this regard, Akima relies on its own proposed price and staffing approach as a putative benchmark, and asserts that CDS's and [redacted]'s “unreasonably low price[s]”<sup>8</sup> must reflect either inadequate staffing or failure to meet certain wage requirements.<sup>9</sup> *Id.* at 11-12.

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<sup>6</sup> We note that Akima, itself, is not the incumbent contractor; rather, Akima states that it is an affiliate of the incumbent.

<sup>7</sup> Akima asserts that the solicitation reflected a 30-day mobilization period. Protest at 8.

<sup>8</sup> As noted above, the solicitation did not contain any price realism provisions. Accordingly, the agency was neither required nor permitted to reject an offeror's proposal on the basis of its low price. See, e.g., Alamo City Eng'g Servs., Inc., B-409072, B-409072.2, Jan. 16, 2014, 2014 CPD ¶ 32 at 4.

<sup>9</sup> Akima also asserts that the agency erroneously found CDS's and [redacted]'s proposals acceptable under the past performance evaluation factor because, allegedly, neither of them has relevant prior experience--although Akima expressly acknowledges that “CDS has very recently been awarded three BOS contracts,” Protest at 13, and makes no other factual representation regarding [redacted]'s past performance. Even if we accept, for the sake of argument, that neither offeror has relevant past performance, Akima's challenge to the agency's evaluation of past performance fails to state a valid basis for protest. As noted above, the solicitation expressly provided that an offeror without a record of relevant past performance would be assigned an unknown/neutral past performance rating and that, for purposes of this procurement, that rating “shall be considered ‘acceptable’.” RFP at 48. Accordingly, Akima's protest allegations that the agency should have found CDS's and [redacted]'s proposals unacceptable under the past performance evaluation factor are contrary to the express provisions of the solicitation.

Following receipt and review of Akima's protest, the agency submitted a motion to dismiss, arguing, among other things, that the protest is factually and legally insufficient. Agency MTD, Oct. 11, 2017. As discussed below, we agree.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556. Our role in resolving bid protests is to ensure, in an efficient and expeditious manner, that the statutory requirements for full and open competition are met. Cybermedia Techs., Inc., B-405511.3, Sept. 22, 2011, 2011 CPD ¶ 180 at 2. To achieve this end, our Bid Protest Regulations provide that a protest must include sufficiently supported grounds for protest. 4 C.F.R. § 21.1(c)(4) and (f). In this regard, an unsuccessful offeror's speculation, without more, regarding competing offerors' proposals is generally inadequate. CALIBRE Systems, Inc., B-414301.3, Sept. 20, 2017, 2017 CPD ¶ \_\_\_ at 6 n.3; Siebe Envtl. Controls, B-275999.2, Feb. 12, 1997, 97-1 CPD ¶ 70 at 2. Similarly, protests challenging an agency's evaluation assessments that are based only on the terms of the solicitation and the protester's comparison of a competitor's presumed approach to the protester's own approach are generally insufficient to satisfy our Bid Protest Regulations. SBG Technology Solutions, Inc., B-410898.9, B-410898.12, July 21, 2016, 2016 CPD ¶ 199 at 4 n.4.

Here, Akima's assertions regarding the alleged unacceptability of CDS's and [redacted]'s proposals are based completely on the terms of the solicitation and Akima's assertion that "any non-incumbent contractor's proposal . . . could not be reasonably found to be technically acceptable." Protester's Opposition to Agency MTD/Supplemental Protest, Oct. 16, 2017, at 2. That is, Akima's protest effectively reflects its view that this procurement should have been conducted as a de facto sole-source acquisition that could only result in an award to Akima. On this record, we conclude that Akima's allegations reflecting its dissatisfaction with the agency's decision to conduct a competitive procurement, without more, are inadequate to support further consideration of its protest.

The protest is dismissed.

Susan A. Poling  
General Counsel