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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: Alliance Technical Services, Inc.

File: B-311329; B-311329.2

Date: May 30, 2008

Michael J. Gardner, Esq., George G. Booker, Jr., Esq., and Jessica L. Martyn, Esq., Troutman Sanders LLP, for the protester.

Catherine Kellington, Esq., Department of the Navy, for the agency.

Mary G. Curcio, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency failed to hold meaningful discussions with protester regarding experience is denied where record shows that there is no merit to allegation and that, even if protester's proposal received highest possible evaluation score in area where discussions allegedly were insufficient, its proposal would remain lower technically rated and higher priced than awardees' proposals; since protester thus would not be in line for award, it was not prejudiced by any insufficient discussions.
 2. Protest that agency improperly failed to conduct comparative evaluation of proposals in determining "best value" is denied where proposals selected for award were highest technically rated and lowest priced.
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DECISION

Alliance Technical Services, Inc. (ATS) protests contract awards to Gryphon Technologies, LC and EHS Technologies Corporation under request for proposals (RFP) No. N65530-06-R-0010, issued by the Department of the Navy for engineering, technical analysis, and support services for naval ship hull, mechanical and electrical, and combat support systems. ATS complains that the agency failed to hold meaningful discussions and failed to document its "best value" determination.

We deny the protest.

The RFP, issued on August 10, 2006, contemplated the best value award of one or more contracts based on an evaluation of technical factors (personnel, with subfactors for senior engineering technician, senior corrosion control technician and

program manager; corporate experience and past performance; management quality assurance, with subfactors for technical understanding, organizational structure, management ability and quality assurance plan; and facilities, with subfactors for physical access, hardware capabilities and software capabilities) and price (which was to be evaluated for realism). RFP at 63, 64.

Four offerors responded to the RFP. Following the evaluation of initial proposals, discussions, and the submission and evaluation of final proposal revisions, Gryphon's proposal was ranked first technically with 95.7 (of 100 available) points--44.6 (of 47) points for personnel, 33.4 (of 35) points for experience/past performance, 11.7 (of 12) points for management quality assurance, and 6 (of 6) points for facilities. EHS's proposal was ranked second technically with 85.8 points--40 for personnel, 30.1 for experience/past performance, 9.9 for management, and 5.8 for facilities.¹ ATS's proposal was ranked fourth with 75 points--32.1 for personnel, 27 for experience/past performance, 10.1 for management, and 5.8 for facilities. Agency Report (AR) at 4, Evaluation Summary Matrix. With respect to price, as evaluated for realism, EHS's price was low (\$32,669,567.68), Gryphon's was second low (\$34,306,671.99), and ATS's was third low (\$38,386,570.33). *Id.* The agency awarded contracts to Gryphon and ETS, the two offerors with the highest technical scores and lowest evaluated prices. ATS protests the awards.

DISCUSSIONS

Under the corporate experience subfactor, offerors were evaluated for demonstrated experience in providing engineering and technical services related to the statement of work. RFP at 59. Among other things, offerors were specifically required to supply three work examples related to surface ship corrosion control post shakedown availabilities, and two examples related to monitoring surface ship shipboard work during an availability period while in a building yard or shipyard. RFP Amend. 4, at 5. The agency found ATS's proposal unclear as to which of the listed experience information was to be evaluated for the work examples requested. During discussions, the agency advised ATS that "ATS provides corporate experience information . . . , but does not specify which information is to be used for the work examples requested." Discussion Question 9. In its final proposal revision (FPR), ATS provided an explanation of how the information in its proposal related to the work examples requested. Thereafter, in evaluating ATS's FPR, the agency found that the listed experience was not highly relevant. ATS asserts that the discussions in this area were not meaningful because the record shows that, during the initial evaluation, one of the evaluators made comments that were not communicated to ATS.

¹The score sheet provided by the agency indicates EHS's total score as 86.7 points, instead of the correct sum of 85.8 points.

This argument is without merit. The statements of the individual evaluator to which ATS refers were not carried forward into the consensus evaluation, which formed the basis for ATS's score under the corporate experience subfactor, and upon which the discussion questions were based. Accordingly, the evaluator's comments do not provide a basis for questioning the adequacy of discussions with ATS. See generally Lakeside Escrow & Title Agency, Inc., B-310331.3, Jan. 7, 2008, 2008 CPD ¶ __ (where individual evaluator comments are not included in consensus evaluation report, objections to statements of evaluator are irrelevant). In any case, ATS's proposal received 75 total technical points, while the awardees' proposals received 95.7 and 85.8 technical points. Under the corporate experience subfactor, ATS's FPR received 19 of the 25 available points. Final Evaluation, Subfactor B-1. This being the case, even if ATS's proposal received a perfect score of 25 points for corporate experience, its total evaluated score would only increase to 81 points. Since, even under this scenario, ATS's proposal would be rated lower technically than the two awardees' proposals, and its price would remain higher than both awardees' prices, ATS would not be in line for award even if it prevailed on this aspect of its protest. Under these circumstances ATS was not prejudiced by any failure by the agency to provide meaningful discussions. G&N, L.L.C., B-285118 et al., July 19, 2000, 2000 CPD ¶ 3 at 11.

BEST VALUE DETERMINATION

ATS asserts that the best value determination was flawed because the agency has provided no documents showing that proposals were evaluated by individual evaluators and because the agency has provided no evidence that it conducted a comparative analysis of the proposals to determine which was the best value.

This argument is without merit. First, the lack of documents prepared by individual evaluators does not render an agency's evaluation unreasonable per se; rather, we consider the record adequate if the consensus documents and source selection decision sufficiently document the agency's rationale for the evaluation. Joint Mgmt. and Tech. Servs., B-294229, B-294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 3-4; Global Eng'g and Constr., LLC, B-290288.3, B-290288.4, Apr. 3, 2003, 2003 CPD ¶ 180 at 3 n.3. Here, the evaluation documentation is sufficient because it includes the evaluators' consensus report, which details the strengths and weaknesses of the proposals that formed the basis for both the agency's evaluation ratings for each offeror and the selection decision itself. With respect to the absence of a detailed comparative evaluation of the proposals, since the proposals selected for award were both higher technically rated and lower priced than ATS's proposal, such a comparative evaluation--i.e., a price-technical tradeoff--was not required. MD Helicopters, Inc., Agusta Westland, Inc., B-298503 et al., Oct. 23, 2006, 2006 CPD ¶ 164 at 49 n.49.

SUPPLEMENTAL PROTEST

In an April 14 supplemental protest, ATS argues that the agency improperly evaluated the proposals of EHS and Gryphon under the program manager and senior engineering technician personnel subfactors; failed to consider the individual evaluators' findings in evaluating ATS's proposal under the personnel factor; improperly evaluated ATS's proposal under the past performance subfactor; provided disparate discussions; improperly failed to document the individual evaluators' FPR evaluations; and that the awards represent illegal personal services contracts.

Under our Bid Protest Regulations, a protest not based on an apparent solicitation impropriety must be filed within 10 calendar days after the basis of protest is known, or should have been known, whichever is earlier. 4 C.F.R. § 21.2(a)(2) (2008). Where a protester files supplemental protest grounds, each new ground must independently satisfy the timeliness requirements of our Regulations. QualMed, Inc., B-257184.2, Jan. 27, 1995, 95-1 CPD ¶ 94 at 12-13. Here, ATS's supplemental protest raises new issues that are based on documents ATS received from the agency on April 1.² Since ATS did not file the supplemental protest until April 14, more than 10 days later, the issues raised are untimely and will not be considered.

The protest is denied.

Gary L. Kepplinger
General Counsel

²Some of the issues ATS raises in its supplemental protest provide specifics regarding issues raised in its initial protest. For example, while ATS initially challenged the Navy's evaluation of the awardees' technical proposals, in the supplemental protest it specifically challenges the evaluation with respect to key personnel offered by the awardees. Where an initial protest raises general protest allegations and a supplemental protest provides specific "examples" of the alleged general flaws, the supplemental grounds are untimely; such a staggered presentation of "examples," each of which involves different factual circumstances and requires a separate explanation from the agency, constitutes precisely the kind of piecemeal presentation of issues that our timeliness rules do not permit. FR Countermeasures, Inc., B-295375, Feb. 10, 2005, 2005 CPD ¶ 52 at 9.