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**Comptroller General
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**United States Government Accountability Office
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Decision

Matter of: Joint Management & Technology Services

File: B-294229; B-294229.2

Date: September 22, 2004

David P. Metzger, Esq., Michele M. Brown, Esq., and Anand V. Ramana, Esq., Holland & Knight, for the protester.

G. Lindsay Simmons, Esq., and James Eric Whytsell, Esq., Jackson Kelly, for Prologic, Inc., an intervenor.

Thomas J. Russial, Esq., Nancy Toppetta, Esq., Patricia D. Graham, Esq., and Gena E. Cadieux, Esq., Department of Energy, for the agency.

Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest alleging that, because agency destroyed individual evaluator sheets, record does not include adequate documentation supporting the agency's evaluation and source selection decision, is denied where consensus evaluation materials and source selection decision contain a detailed explanation of the agency's evaluation conclusions and source selection decision.
 2. Protest allegations challenging agency's evaluation of protester's proposal are denied where either the allegations are without merit, or the alleged evaluation errors did not result in competitive prejudice to protester.
 3. Protester is not an interested party to challenge evaluation of awardee's proposal where record shows that another firm, not the protester, would be in line for award if protester's challenge were sustained, and protester does not challenge evaluation of the other firm's proposal.
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DECISION

Joint Management & Technology Services (JMTS), a Small Business Administration-approved mentor-protégé joint venture,¹ protests the award of a contract to

¹ See 13 C.F.R. § 124.520 (2004).

Prologix, Inc. under request for proposals (RFP) No. DE-RP26-03NT41820, issued by the Department of Energy (DOE) to acquire information technology and engineering support services for its National Energy Technology Laboratory. JMETS asserts that the agency misevaluated proposals and, as a result, made an unreasonable source selection decision.

We deny the protest.

The RFP, issued as a competitive section 8(a) set-aside, contemplated the award of a cost-plus-award-fee task order contract for a base period of 3 years, with two 1-year options. Firms were advised that the agency intended to make award to the firm submitting the proposal deemed to offer the “best value” to the government considering cost and the following five non-cost criteria (weighted): technical approach (35 percent); key/critical personnel (25 percent); management approach (20 percent); experience (10 percent); and past performance (10 percent). RFP at 162.²

The agency received 11 proposals, including the protester’s and the awardee’s. After evaluating the proposals and arriving at consensus scores, the agency determined that, of the 11 proposals submitted, 6 were weak, 4 (including the protester’s) were satisfactory, and 1 (the awardee’s) was outstanding. The agency arrived at these conclusions using a scoring system outlined in the agency’s source selection plan; proposals were scored under each of the evaluation criteria with numeric ratings of either 0 (unacceptable), 2 (weak), 5 (satisfactory), 8 (very good) or 10 (outstanding). AR, exh. E-1, at 7. The numeric scores were assigned based on the number and quality of strengths and weaknesses found (and described by the evaluators in narrative form) for each proposal under each criterion. These numeric ratings were then multiplied by the relative weight for each evaluation criterion, resulting in a maximum possible score of 1,000 points. The scores assigned to the satisfactory and outstanding proposals were as follows:

² The RFP expressed the relative importance of the evaluation criteria in a narrative form which, when read in its entirety, reflects the percentage weights noted above; the percentage values also appear in the agency’s source selection plan. Agency Report (AR), exh. E-1, at 4.

Offeror	Tech. Approach (35%)	Key/ Critical Personnel (25%)	Mgmt. Approach (20%)	Experience (10%)	Past Perf. (10%)	Total
Prologic	Strengths: 31 Weaknesses: 2 Score: 10 Points: 350	Strengths: 11 Weaknesses: 1 Score: 8 Points: 200	Strengths: 20 Weaknesses: 1 Score: 10 Points: 200	Strengths: 15 Weaknesses: 0 Score: 10 Points: 100	Strengths: 5 Weaknesses: 2 Score: 8 Points: 80	930
Firm A	Strengths: 14 Weaknesses: 4 Score: 8 Points: 280	Strengths: 4 Weaknesses: 3 Score: 5 Points: 125	Strengths: 17 Weaknesses: 3 Score: 8 Points: 160	Strengths: 16 Weaknesses: 2 Score: 8 Points: 80	Strengths: 1 Weaknesses: 2 Score: 5 Points: 50	695
Firm B	Strengths: 31 Weaknesses: 1 Score: 8 Points: 280	Strengths: 9 Weaknesses: 5 Score: 5 Points: 125	Strengths: 6 Weaknesses: 7 Score: 2 Points: 40	Strengths: 12 Weaknesses: 0 Score: 8 Points: 80	Strengths: 3 Weaknesses: 0 Score: 8 Points: 80	605
Firm C	Strengths: 9 Weaknesses: 13 Score: 5 Points: 175	Strengths: 6 Weaknesses: 3 Score: 5 Points: 125	Strengths: 10 Weaknesses: 9 Score: 5 Points: 100	Strengths: 13 Weaknesses: 2 Score: 5 Points: 50	Strengths: 6 Weaknesses: 0 Score: 10 Points: 100	550
JMTS	Strengths: 5 Weaknesses: 10 Score: 5 Points: 175	Strengths: 3 Weaknesses: 2 Score: 5 Points: 125	Strengths: 11 Weaknesses: 9 Score: 5 Points: 100	Strengths: 3 Weaknesses: 2 Score: 5 Points: 50	Strengths: 1 Weaknesses: 2 Score: 5 Points: 50	500

AR, exh. E-2. The evaluated costs for the five firms were as follows:

Offeror	Evaluated Cost
Prologic	\$23,492,553
Firm A	\$21,078,297
Firm B	\$23,020,302
Firm C	\$31,159,894
JMTS	\$22,396,255

AR, exh. E-3, at 2.

On the basis of these evaluation results, the agency made award to Prologic, finding that its significantly superior technical proposal warranted paying the associated cost premium. In this regard, the record shows that the source selection official (SSO) focused his deliberations on the relative merits of the Prologic proposal as compared to the next-highest ranked proposals, submitted by Firms A and B; the source selection statement makes no mention of JMTS's proposal beyond a listing of the firm's technical score and evaluated cost, apparently reflecting the fact that it was not in line for award given the number of technically superior proposals ranked above it. AR, exh. E-5.

ADEQUACY OF THE EVALUATION RECORD

JMTS asserts that the agency's evaluation record is inadequate to document its selection decision. The focus of JMTS's assertion is the lack of individual evaluator

sheets in the record which, the agency advises, were destroyed after the evaluators prepared their consensus evaluation materials. JMITS maintains that the consensus evaluation materials are lacking in the detail necessary to support the agency's evaluation conclusions.

A consensus rating need not be the same as the rating initially assigned by the individual evaluators; rather, the final evaluation rating may be arrived at after discussions among the evaluators. L.S. Grupe, Inc., B-278839, Mar. 20, 1998, 98-1 CPD ¶ 86 at 5-6. Where, as here, the agency has destroyed individual evaluation materials, its actions are unobjectionable provided that the consensus evaluation materials relied on by the agency support the agency's judgments regarding the relative merits of the proposals. Global Eng'g and Constr., LLC, B-290288.3, B-290288.4, Apr. 3, 2003, 2003 CPD ¶ 180 at 3 n.3.

We find no merit to this aspect of JMITS's protest. As noted, the record includes the agency's consensus evaluation materials which, contrary to JMITS's assertion, provide a significant level of detail about the evaluators' findings regarding the strengths and weaknesses identified in the proposals. While JMITS devotes a significant portion of its protest to asserting that the evaluators' conclusions are erroneous primarily as they relate to JMITS's proposal, the protester's disagreement with the evaluation conclusions does not demonstrate that they are lacking in detail.

EVALUATION OF JMITS PROPOSAL

JMITS takes issue with most of the weaknesses found in its proposal. We note at the outset that, in reviewing an agency's technical evaluation, we will not reevaluate proposals; rather, we will examine the record to ensure that the evaluation was reasonable and consistent with the solicitation's evaluation scheme, as well as relevant procurement statutes and regulations. Interstate Gen. Gov't Contractors, Inc., B-290137.2, June 21, 2002, 2002 CPD ¶ 105 at 3.

Experience

JMITS maintains that the agency erroneously assigned it a rating of 5 (satisfactory) under the experience criterion. According to the protester, since the several entities comprising the JMITS team (including the mentor firm, D.N. American, the protégé firm, IMTS, and subcontractors EG&G and SAIC) were the incumbent contractors for this requirement, it was irrational for the agency to assign it a rating of only 5.

This argument is without merit. The record shows that the agency assigned weaknesses to the JMITS proposal in the area of experience because the evaluators were unable to determine the experience of the individual JMITS team members. In this regard, the evaluators specifically noted that JMITS was a newly-formed joint venture with no experience of its own, and that the proposal's failure to clearly delineate the experience of the individual team members made it difficult to assess

the team members' experience. AR, exh. E-2, at 43. The agency also notes that the managing joint venturer, IMTS, has almost no experience in information technology support. AR, July 30, 2004, at 25 n.9.³ JMITS does not rebut the agency's assertions, and we have examined the JMITS proposal and find the agency's conclusions reasonable; the team members' experience is not clearly delineated. AR, exhs. B-5, B-7. We note in this connection that offerors have an affirmative obligation to submit an adequately written proposal. United Def., LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 19. Where, as here, there is no reasonable way to discern the experience of each of the team members in a newly-created entity, such as JMITS, that has no experience of its own, we see nothing unreasonable in the agency's downgrading the proposal under the experience criterion.

Past Performance

JMITS argues that the agency improperly assigned it a rating of 5 under the past performance criterion. According to the protester, this was improper because three of the four JMITS team members (D.N. American, EG&G and SAIC) received high ratings on their past performance surveys (in the exceptional or outstanding rating categories), and IMTS did not have any significant experience and therefore should have received a neutral rating. JMITS concludes that an averaging of three high ratings with one neutral rating should have resulted in a score higher than merely satisfactory, and that the agency, by assigning only a satisfactory rating, essentially penalized the firm for IMTS's lack of past performance, and improperly ignored the past performance ratings of the other entities comprising the JMITS team.

The evaluation in this area was reasonable. The record shows that the agency assigned the satisfactory rating due to concerns that IMTS, the managing concern for performance of the contract, did not have any meaningful past performance, AR, exh. E-2, at 44, and that JMITS itself did not have any past performance, having been

³ While the evaluators did not specifically note this as a weakness under the experience criterion in the consensus evaluation report, the record nonetheless supports the agency's conclusion. Under the past performance evaluation criterion, the evaluators noted IMTS's lack of prior contracts performing services similar in breadth to the requirement here. AR, exh E-2, at 44. Moreover, an examination of the JMITS proposal in both the experience and past performance sections reflects this lack of prior contracts on the part of IMTS; only four contracts are identified with IMTS in any way, and of those, three appear to have been awarded to the mentor firm, D.N. American. The fourth listing was a \$3 million contract to perform more limited services relating solely to software development, and D.N. American is identified as IMTS's subcontractor. In this regard, where, as here, a mentor firm has experience, but its protégé firm has almost none, an agency properly may downgrade the proposal on this basis. MW-All Star Joint Venture, B-291170.4, Aug. 4, 2003, 2004 CPD ¶ 98 at 5.

created solely for purposes of submitting a proposal for this requirement. Id. The agency's assigning of a rating of 5--effectively the midpoint on the evaluation scoring scale, which did not include a neutral category--amounted to a neutral (i.e., neither favorable nor unfavorable) evaluation of the firm's past performance, consistent with regulations applicable where an offeror has no past performance. Federal Acquisition Regulation § 15.305(a)(2)(iv); Braswell Servs. Group, Inc., B-278921.2, June 17, 1998, 98-2 CPD ¶ 10 at 7-8. We find nothing improper in the agency's focusing, in particular, on the joint venture's lack of past performance, even though the JMTS team includes D.N. American, a mentor firm with a record of past performance, as well as the two subcontractors, also with records of past performance. In this regard, agencies are permitted, but not required, to consider the individual experience and past performance of other entities such as individual members of a mentor-protégé joint venture or other subcontractors comprising a team being offered to perform a requirement. MW-All Star Joint Venture, supra, at 4-5. Thus, there was nothing unreasonable in the agency's not according some greater weight to the positive past performance surveys of those team members having past performance.

Key/Critical Personnel

JMTS objects to the rating of 5 assigned its proposal in the area of key/critical personnel. The basis for this rating was the agency's finding of a lack of management experience on the part of two of JMTS's proposed key/critical personnel--its proposed project manager and helpdesk manager. The evaluators found that the project manager had limited experience in managing a portfolio of information technology projects (only approximately 1 year of experience as an interim project manager), and that the helpdesk manager had very limited management experience (only approximately 3-4 months of experience in her position). AR, exh. E-2, at 41.

JMTS objects to the agency's conclusions. It asserts that the proposed project manager's resume shows that, in addition to being the interim project manager for approximately 1 year, she also served as the alternate program manager for approximately 2 years. As for the helpdesk manager, JMTS argues that, although she has only been performing this job for approximately 4 months, nonetheless, the agency approved her appointment to that position under the predecessor contract, and therefore must look favorably upon her ability to perform the job. Finally, JMTS asserts that its rating of only 5 in this area shows that the agency also failed to give adequate weight to three identified strengths.

The evaluation in this area was reasonable. The record shows--and JMTS does not dispute--that the proposed project manager has been performing as an interim project manager for only approximately 1 year. While she is identified as having performed the role of alternate program manager for a period of slightly more than 2 years, JMTS's proposal describes her as performing that function only "in the

absence of the program manager,” AR, exh. B-8, at 6, who was a full-time employee under the predecessor contract. Under the circumstances, there was nothing unreasonable in the agency’s concluding that she had only limited management experience; the protester’s assertion to the contrary amounts to no more than disagreement with the evaluation. Similarly, we find nothing unreasonable in the agency’s viewing the helpdesk manager’s 3-4 months of experience as limited, and the fact that the agency may have approved her appointment to that position under the predecessor contract in no way undermines this conclusion.

We also find nothing unreasonable in the weight the agency accorded to the strengths identified in JMITS’s proposal in this area. The evaluators identified three strengths: that a full staff of key and critical personnel is defined in the proposal; that these personnel are 100 percent dedicated to the requirement; and that the personnel have backgrounds “adequate” to perform the requirement. AR, exh. E-2, at 41. It is not apparent to us why the agency considered these three features to be particular strengths, but in any case, the protester has not shown that, under the scoring scheme used by the agency, these identified strengths were sufficiently significant to warrant an increase in its proposal rating in this area.

Technical and Management Approaches

JMITS takes issue with the agency’s evaluation in the areas of technical approach and management approach, asserting that 8 of the 10 weaknesses identified in its proposed technical approach were baseless, and that all 9 of the weaknesses found in its management approach were baseless. JMITS also asserts that the agency improperly failed to credit its proposal with some five strengths in the technical approach area. We need not consider these assertions in detail, since it is clear from the record that, even if we were to agree with the protester as to all of these allegations, and its score were increased accordingly, there is no possibility that JMITS’s proposal would have moved into line for award. Prejudice is an essential element of every viable protest, and where none is shown or otherwise apparent, we will not sustain a protest, even if the agency’s actions may arguably have been improper. Citrus College; KEI Pearson, Inc., B-293543 et al., Apr. 9, 2004, 2004 CPD ¶ 104 at 7.

As noted, the agency assigned numeric scores on the basis of the number and quality of strengths and weaknesses found in each area for each proposal. The assignment of scores was based on the following definitions in the agency’s source selection plan:

A proposal that convincingly demonstrates the offeror’s ability to meet the Government’s mission objectives, demonstrates few, if any, significant strengths, and shows few, if any significant weaknesses shall be deemed satisfactory [and therefore be assigned a score of 5].

A proposal that convincingly demonstrates the offeror's ability to meet and exceed the government's mission objectives, demonstrates several significant strengths, and shows only minor weaknesses shall be deemed very good [and therefore be assigned a score of 8].

A proposal that convincingly demonstrates the offeror's ability to meet and significantly exceed the Government's mission objectives, clearly demonstrates many significant strengths, and shows none or only minor weaknesses shall be deemed outstanding [and therefore be assigned a score of 10].

AR, exh. E-1, at 7.

As noted, JMTS asserts that 8 of the 10 weaknesses found in its technical approach were erroneous, and that an additional 5 strengths also should have been assigned. If JMTS's view prevailed, its technical approach would have been assigned 10 strengths and 2 weaknesses. Based on the definitions quoted above, and considering the manner in which the agency applied those definitions in scoring the proposals based on their assigned strengths and weaknesses (which appears to be highly consistent among all proposals), we find that, with 10 strengths and 2 weaknesses, the protester's proposal, at best, may have merited a score of 8 points (or the addition of 105 points to its total weighted score), rather than the 5 points assigned. In this connection, we note, for example, that Firm A's proposal received a rating of 8 with 14 strengths and 4 weaknesses in the area of technical approach, as did Firm B's with 31 strengths and 1 weakness. (We note as well that the protester does not assert, and the record does not otherwise support the suggestion that the strengths (either found or alleged) were significant strengths that 'significantly exceed the government's mission objectives,' as required for the assignment of a score of 10.)

Similarly, in the management approach area, if we agreed with JMTS that the agency improperly identified 9 weaknesses in its proposal, it would have had 11 strengths and 0 weaknesses. Again, applying the definitions in the RFP, and considering the scoring of the other proposals in this area, it is clear that, with 11 strengths and 0 weaknesses, JMTS's proposal may have merited, at best, a score of 8 (increasing its total score by 60 points), rather than the score of 5 that was assigned. A comparison to the agency's scoring of the other proposals in this area shows, for example, that Firm A's proposal was assigned a score of 8 in this area for 17 strengths and 3 weaknesses, and assigned a score of 10 to Prologic's proposal for including 20 strengths and only 1 weakness. (As in the technical approach area, JMTS does not allege that any of the identified strengths significantly exceed the RFP's requirements.)

Based on our analysis, even if we agreed with the protester as to all of its strengths and weaknesses and adjusted its scoring accordingly, its proposal would receive, at best, a total score of 665 points, rather than the 500 points actually assigned. In

comparison, Firm A's second-highest ranked proposal received a score of 695 points and had an evaluated cost approximately \$1.3 million lower than the protester's. Since the protester's proposal would be lower-rated and higher-cost than Firm A's, there is no reasonable possibility that any of the alleged evaluation errors, if corrected, would move the protester into line for award ahead of Firm A or otherwise change the outcome of the competition. The protester therefore was not prejudiced by the alleged errors.

EVALUATION OF THE PROLOGIC PROPOSAL

JMITS alleges that the agency miscalculated Prologic's proposal. However, as explained above, JMITS's proposal would have been ranked behind Firm A's, even if we assume that JMITS's proposal should have received higher ratings than it did. Thus, since Firm A would be in line for award ahead of JMITS, and JMITS does not challenge the evaluation of Firm A's proposal, JMITS is not an interested party, within the meaning of our Bid Protest Regulations, 4 C.F.R. § 21.0(a) (2004), to challenge the award to Prologic. Four Winds Servs, Inc., B-280714, Aug. 28, 1998, 98-2 CPD ¶ 57 at 2.

The protest is denied.

Anthony H. Gamboa
General Counsel