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# Decision

**Matter of:** Chloeta Fire, LLC

**File:** B-416448

**Date:** July 17, 2018

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Steven J. Koprince, Esq., Matthew P. Moriarty, Esq., Shane J. McCall, Esq., and Nicole D. Portroff, Esq., Koprince Law, LLC, for the protester.

Stuart Palley, for Stuart Palley Photography; Kari Greer, for Kari Greer Photography; Dave Mills, for Dave Mills Photography; and Kristen Honig, sole-proprietor, the intervenors.

Elin M. Dugan, Esq., Department of Agriculture, for the agency.

Todd C. Culliton, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest that the agency applied unstated evaluation criteria is denied where the record shows that the solicitation's terms contemplated an evaluation of each vendor's experience based on whether it had previously provided similar services.
  2. Protest that the agency unreasonably evaluated the firm's experience is denied where the record shows that agency reasonably did not consider the experience of the firm's project manager and post production manager.
  3. Protest that the agency unreasonably evaluated the firm's quotation is denied where the record shows that protester's past performance information was not similar in type, scope, or complexity to the instant acquisition.
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## DECISION

Chloeta Fire, LLC, of Midwest City, Oklahoma, protests the establishment of blanket purchase agreements with multiple other firms under request for quotations (RFQ) No. 12024B18Q0005, issued by the Department of Agriculture, Forest Service for wildland fire photography and videography services. Chloeta alleges that the agency unreasonably evaluated its quotation.

We deny the protest.

## BACKGROUND

The RFQ, issued on March 13, 2018, contemplated the establishment of multiple blanket purchase agreements to be performed over a 1-year base period, four 1-year option periods, and a 6-month extension period. Agency Report (AR), Tab 13, Amended RFQ at 5, 10.<sup>1</sup> Quotations would be evaluated under a best-value tradeoff analysis on the basis of price and two non-price factors, organizational experience and past performance. Id.

Vendors could submit quotations for photography, videography, or both services. Id. at 11. When describing the services to be performed, the solicitation advised the following:

The Contractor will be required to shoot still photographs and/or video of wildfires and prescribed fires burning in forests and on rangelands; wildland firefighters engaged in suppression actions, including, but not limited to, digging firelines, operating fire engines and hoses, rappelling out of helicopters, parachuting out of fixed wing aircraft, protecting structures, and conducting burn-outs and backfires; helicopters and fixed wing aircraft dropping water or fire retardant on wildfires; and events and activities conducted in support of wildfires and prescribed fires, including visits to, and tours of, wildfires, fire camps, and fire support facilities by government agency leaders and elected officials, conferences, and trainings.

Id. at 7. The solicitation also advised that photographers and videographers must be available on short notice to travel to remote forest and rangeland locations where they would have to endure high temperatures and smoke in order to perform their duties. Id.

Prior to the close of the solicitation period, the agency received quotations from 16 vendors, including Choeta. Contracting Officer's Statement of Facts at ¶ 4 (COSF). Following the evaluation, the agency assigned Choeta the following non-price ratings:

	<b>Organizational Experience</b>	<b>Past Performance</b>
<b>Photography</b>	No Confidence	Unknown Confidence
<b>Videography</b>	No Confidence	Unknown Confidence

AR, Tab 6, Award Determination at 5, 7; COSF at ¶¶ 7, 8. The Contracting Officer (CO) determined Choeta's quotation to be technically unacceptable and did not recommend the firm for award. COSF at ¶ 9. On that basis, the source selection authority did not

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<sup>1</sup> The Forest Service used a Bates numbering system in preparing its report. This decision uses the Bates numbers assigned for all citations to the report.

select Chloeta for award, and instead selected eleven other vendors. AR, Tab 6, Award Determination at 16. After the agency notified Chloeta that its quotation was unsuccessful, it filed the instant protest with our Office.

## DISCUSSION

Chloeta challenges the agency's evaluation of its quotation under both non-price factors. The firm alleges that the agency applied unstated evaluation criteria, unreasonably ignored some of its employees' experience, and improperly evaluated its past performance references. We have considered all of the firm's allegations and find no basis to sustain the protest.

### Organizational Experience

Under the organization experience factor, the RFQ provided that proposals would be evaluated based on whether vendors could show they had performed "demonstrated and frequent work that [was] similar in size and scope." AR, Tab 13, Amended RFQ, at 57. Chloeta interprets this criterion as limiting the agency's consideration to whether a vendor had general experience providing photography or videography services. Comments at 4, 5. Thus, the firm argues that the agency applied unstated evaluation criteria because the agency based its rating on the fact that Chloeta lacked specific experience photographing or video-recording wildland fires. Protest at 8. In response, the agency asserts that the terms of the solicitation allowed for consideration of whether a vendor had such specific experience. Memorandum of Law (MOL) at 9.

When reviewing whether an agency applied unstated evaluation criteria, our decisions explain that an agency is required to evaluate quotations based solely on the factors identified in the solicitation. IBM Global Business Serv.--U.S. Federal, B-409029, B-409029.2, Jan. 27, 2014, 2014 CPD ¶ 43 at 4. While an agency may apply evaluation considerations that are not expressly outlined in the solicitation if those considerations are reasonably and logically encompassed within the stated evaluation criteria, there must be a clear nexus between the stated and unstated criteria. Id.

On this record, we find that the agency did not apply unstated evaluation criteria. The solicitation advised that quotations would be evaluated under the organization experience factor based on whether they demonstrated experience performing similar photography and videography services. As noted above, the solicitation defined the services to be provided under this acquisition as photographing and video-recording wildfires or prescribed fires burning in woodlands and rangelands, as well as photographing and video-recording firefighters engaged in fire suppression efforts. Thus, the agency did not apply unstated evaluation criteria when the agency reasonably concluded that similar services would be those involving photographing or video-recording wildfires and fire suppression efforts, and not simply whether the vendor had provided general photography or videography services. Cf. MIRACORP, Inc., B-410413.2, Feb. 23, 2015, 2015 CPD ¶ 98 at 6 (consideration of vendors' management experience was logically encompassed within the solicitation provisions

because the specific duties to be performed included management services and the evaluation criteria provided that experience would be evaluated for the vendor's capacity to complete similar projects). To the extent Chloeta asserts that photographing and video-recording weddings or sporting events qualifies as similar experience, we note that this assertion, without more, constitutes disagreement with the agency's evaluation and is therefore not a basis to sustain the protest. See Pathology Assocs., Inc., B-237208.2, Feb. 20, 1990, 90-1 CPD ¶ 292 at 4 (disagreement with agency's evaluation of protester's experience does not constitute a basis to sustain the protest).

Chloeta also argues that the agency unreasonably ignored some of its employees' experience during the evaluation. Specifically, Chloeta argues that its project manager has extensive experience photographing wildland fires and its post-production manager has extensive experience providing wildfire videography services. Comments at 6-7. In this regard, Chloeta asserts that the agency should have considered these employees' experiences because the employees were listed as the project manager and post-production manager respectively. Id. at 6. The agency responds that those employees' experience was properly ignored because they were proposed to work as managers, not photographers or videographers. MOL at 8.

In reviewing protests challenging an agency's evaluation of quotations, our Office does not reevaluate quotations or substitute our judgment for that of the agency. TSC Enter., LLC, B-415731, Feb. 8, 2018, 2018 CPD ¶ 71 at 2. Instead, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. Id.

As noted above, the agency assigned Chloeta's quotation ratings of "no confidence" for this factor. The award determination shows that the rating was assigned because the agency found that Chloeta did not demonstrate that its photographers and videographers had experience related to the duties to be performed under the instant acquisition. AR, Tab 6, Award Determination at 7, 9. The agency noted that most of Chloeta's photographers and videographers had experience with studio photography, sporting events, weddings, and real estate. Id. The agency further noted that Chloeta's quotation did not contain any examples of wildfire photographs or videos. Id.

Based on our review of the record, the agency reasonably did not consider the experience of Chloeta's project manager or post-production manager. Chloeta's quotation does not state that either of these employees would engage in any field operations; rather, it only states that they would oversee operations from the firm's headquarters. AR, Tab 11, Chloeta's quotation at 14-15. Indeed, the record does not show that either employee would instruct, train, or closely supervise the field photographers and videographers. While Chloeta asserts that the agency should have assumed that they would have direct roles in capturing wildland fire photographs and videos from remote locations, the agency was not required to infer that either of these employees would do anything other than provide general oversight from Chloeta's headquarters. See CTIS, Inc., B-414852, Oct. 3, 2017, 2017 CPD ¶ 309 at 5 ("Agencies are not required to infer information from an inadequately detailed quotation,

or to supply information that the protester elected not to provide.”); cf. TSC Enter., LLC, supra, at 3 (agency was not required to infer experience information from inadequately detailed quotation). Accordingly, the agency reasonably did not consider these employees’ experiences because Chloeta’s quotation only stated that they would oversee operations.

## Past Performance

Chloeta also argues that the agency unreasonably evaluated its past performance information. Chloeta asserts that the agency ignored positive reviews and unreasonably focused on the fact that Chloeta’s experience did not directly relate to wildland fire photography and videography. Comments at 8.

An agency’s evaluation of past performance, including its consideration of the relevance, scope, and significance of a vendor’s performance history, is a matter of discretion which we will not disturb unless the agency’s assessments are unreasonable or inconsistent with the solicitation criteria. Noble Supply and Logistics, B-414511.3, Nov. 6, 2017, 2018 CPD ¶ 46 at 5. The evaluation of past performance, by its very nature, is subjective and a vendor’s disagreement with an agency’s evaluation judgments does not demonstrate that those judgments are unreasonable. Id.

When evaluating past performance, the solicitation stated “[e]ach offeror will be evaluated on their performance under existing and prior contracts of a similar nature in type, scope and complexity.” AR, Tab 13, Amended RFQ at 57. As noted above, the agency assigned Chloeta ratings of “unknown confidence” for its past performance. The agency assigned that rating because Chloeta’s past performance was related to firefighting generally, as opposed to being specifically related to wildland fire photography or videography. AR, Tab 6, Award Determination at 6, 9.

Here, the record shows that the agency reasonably evaluated Chloeta’s past performance information. Chloeta’s quotation identified twelve referenced contracts. AR, Tab 11, Chloeta’s Quotation at 15-17. None of the referenced contracts were viewed as similar in type, scope, or complexity because Chloeta did not provide wildland fire photography or videography services under any of them. Id. For instance, Chloeta’s referenced contracts show that it has supplied initial firefighting attack crews, and provided fire staffing services. Id. Other referenced contracts show that Chloeta has developed wildland fire management plans, as well as firefighting modules. Id. To the extent Chloeta asserts that the agency should have considered the fact that it delivered superior service on each of its referenced contracts, we note that the solicitation’s evaluation criteria did not call for a general consideration of each vendor’s past performance but stated that the agency would evaluate each vendor’s past

performance on similar contracts. Accordingly, as Chloeta did not submit any referenced contracts demonstrating performance in wildland fire photography or videography services, we find that the agency reasonably evaluated Chloeta's past performance information.

The protest is denied.

Thomas H. Armstrong  
General Counsel