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# Decision

**Matter of:** Global Dynamics, LLC

**File:** B-417776

**Date:** October 23, 2019

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Edward J. Tolchin, Offit Kurman Attorneys At Law, for the protester.  
Colonel Patricia S. Wiegman-Lenz, Heather M. Mandelkehr, Esq., Rachell Reilly, Esq., and Alexis J. Bernstein, Esq., Department of the Air Force, for the agency.  
Christopher Alwood, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest that task order proposal request for medical services exceeds the scope of the underlying multiple-award indefinite-delivery, indefinite-quantity contracts is denied where the record shows that services were reasonably encompassed within the contract's scope of work.
  2. GAO lacks jurisdiction to consider protest alleging that the agency improperly denied the protester a fair opportunity to compete for a task order, where value of the task order is less than \$25 million.
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## DECISION

Global Dynamics, LLC, a small business of Columbia, Maryland, protests the terms of task order proposal request (TOPR) No. FA2823-19-R-6022, issued by the Department of the Air Force for the provision of 11 health care workers to provide medical services at Eglin Air Force Base (AFB) Medical Treatment Facility Surgical Clinic. Global Dynamics argues that the TOPR is beyond the scope of its underlying indefinite-delivery, indefinite-quantity (IDIQ) contract and that the agency failed to provide it a fair opportunity to compete for the task order.

We deny the protest in part and dismiss it in part.

## BACKGROUND

On October 23, 2017, the Defense Health Agency (DHA) awarded 36 IDIQ contracts, including one to Global Dynamics, pursuant to request for proposals (RFP) No.

HT0050-16-R-0001 for medical professional staffing services, otherwise known as medical “Q” code services (MQS). Agency Report (AR), Tab 8, DHA MQS Acquisition Contract Awardees; Contracting Officer’s Statement (COS) at 2. The scope of work for the MQS IDIQ contracts was limited to providing full-time equivalent health care workers to identified Department of Defense medical treatment facilities. AR, Tab 6, IDIQ RFP at 34. The IDIQ solicitation required that contractors would provide health care workers from four specific market segments: physician services, dental services, ancillary services, and/or nursing services. Id. at 33-34. Offerors could, but were not required to, submit proposals for all four market segments. Id. at 124. The solicitation stated that awardees would receive one contract to encompass all market segments in which they were found to offer the best value to the government. Id.

Global Dynamics submitted a proposal for both the nursing and ancillary services market segments, but was awarded an MQS IDIQ contract only for ancillary services. COS at 3.

On July 9, 2019, the Air Force<sup>1</sup> issued TOPR No. FA2823-19-R-6022<sup>2</sup> seeking 11 full-time equivalent healthcare workers to staff the Eglin AFB Medical Treatment Facility Surgical Clinic. COS at 5; AR, Tab 14, TOPR at 1-2. The TOPR set the deadline for receipt of proposals as July 19, 2019. AR, Tab 14, TOPR at 7. As relevant here, the services required by the TOPR were to be provided from both the ancillary services and nursing services market segments. Id. at 9. Each of the health care worker positions required under the TOPR was of a labor category specified in the IDIQ solicitation. Compare Id. at 2, with AR, Tab 6, IDIQ RFP at 78-81.

On July 18, 2019, Global Dynamics filed this protest.

## DISCUSSION

Global Dynamics argues that the TOPR is improper because it exceeds the scope of the underlying MQS IDIQ contracts. Protest at 6-8. Global Dynamics contends that the agency’s inclusion of both ancillary and nursing services requirements in the TOPR has created a category of contract not contemplated by the underlying solicitation. Protest

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<sup>1</sup> The IDIQ solicitation provided that the Air Force was an “ordering activity” authorized to place task orders against the MQS IDIQ contracts. AR, Tab 6, IDIQ RFP at 11, 80. The IDIQ solicitation further specified that the Air Force could place orders for services covered by the MQS IDIQ contracts at Eglin AFB. Id. at 80.

<sup>2</sup> In its protest, Global Dynamics challenges the terms of TOPR No. 12228, which the record shows is the agency tracking number used for TOPR No. FA2823-19-R-6022. See AR, Tab 14, TOPR at 1. The Air Force uses the two TOPR numbers interchangeably in its agency report. See, e.g., COS at 5. At no point did the protester allege that TOPR No. FA2823-19-R-6022, which is the TOPR the agency provided as relevant to this protest in its agency report, is not the TOPR at issue in this protest.

at 1, 6. The protester also contends that by allegedly limiting competition under the TOPR to MQS contract holders with nursing and ancillary services in their IDIQ contracts, the agency has failed to provide Global Dynamics with a fair opportunity to compete as required by Federal Acquisition Regulation (FAR) § 16.505. Protest at 6; Comments at 3.

The agency responds that the TOPR is within the scope of the underlying IDIQ contract(s). Memorandum of Law (MOL) at 8-11. The agency contends that the TOPR seeks to procure only services set forth in the MQS IDIQ contract, specifically, health care workers in the nursing and ancillary services market segments. Id. at 8. For the reasons set forth below, we find no basis to sustain the protest.

Under the Federal Acquisition and Streamlining Act of 1994, as modified by the National Defense Authorization Act of Fiscal Year 2017, our Office is authorized to hear protests of task orders that are issued under multiple-award contracts established within the Department of Defense (or protests of the solicitations for those task orders) where the task order is valued in excess of \$25 million, or where the protester asserts that the task order increases the scope, period, or maximum value of the contract under which the order is issued. 10 U.S.C. § 2304c(e); Erickson Helicopters, Inc., B-415176.3, B-415176.5, Dec. 11, 2017, 2017 CPD ¶ 378 at 7. Task orders that are outside the scope of the underlying multiple-award contract are subject to the statutory requirement for full and open competition set forth in the Competition in Contracting Act of 1984 (CICA), absent a valid determination that the work is appropriate for procurement on a sole-source basis or with limited competition. 10 U.S.C. § 2305(a)(1)(A)(i) (2006); DynCorp Int'l LLC, B-402349, Mar. 15, 2010, 2010 CPD ¶ 59 at 6.

When a protester alleges that the issuance of a task or delivery order under a multiple-award contract is beyond the scope of the contract, we analyze the protest in essentially the same manner as those in which the protester argues that a contract modification is outside the scope of the underlying contract. DynCorp Int'l LLC, supra. In determining whether a task order or delivery order is outside the scope of the underlying contract, our Office examines whether the order is materially different from the original contract, as reasonably interpreted. Id. To determine whether such a material difference exists, GAO reviews the circumstances attending the procurement; examines any changes in the type of work, performance period, and costs between the contract as awarded and as modified by the task order; and considers whether the original contract solicitation adequately advised offerors of the potential for the type of task order issued. Id. In other words, the inquiry is whether the order is one which potential offerors would have reasonably anticipated. Symetrics Indus., Inc., B-289606, Apr. 8, 2002, 2002 CPD ¶ 65 at 5.

On this record, we find that the ancillary and nursing services in the TOPR are within the scope of the MQS IDIQ contracts. The stated scope of the MQS IDIQ is to provide health care workers to supplement Department of Defense medical treatment facilities' clinical staff in providing direct health care services to eligible beneficiaries. AR, Tab 6, IDIQ RFP at 34. The IDIQ solicitation specified four market segments from which MQS

IDIQ contract holders would provide qualified healthcare workers: physician, dental, ancillary, and nursing services. Id. at 33-34. The TOPR at issue here requests the provision of services from two of the four categories contemplated by the IDIQ. AR, Tab 14, TOPR at 2, 9. Each of the health care worker positions required under the TOPR reflected a labor category which was expressly provided for in the IDIQ solicitation. Compare Id. at 2, with AR, Tab 6, IDIQ RFP at 78-81.

While the protester clearly disagrees with the agency's decision to procure its required nursing and ancillary services for the Eglin AFB Medical Treatment Facility Surgical Clinic from a single vendor, it has not demonstrated that this represents a material departure from the terms of the MQS IDIQ. The protester argues that the IDIQ solicitation, and the resulting MQS IDIQ contracts, contemplate the issuance of task orders only from a single market segment, but does not demonstrate where in the solicitation this limitation is contemplated. See Protest at 8. Further, we find unreasonable the assertion that an agency that conducted a single procurement for the provision of nationwide medical services under four different market segments through a multiple-award IDIQ contract would be precluded from ordering services from multiple market segments on a single task order. Accordingly, this basis for protest is denied.

The protester also argues that the agency's decision to issue the TOPR to include multiple market segments improperly prevents Global Dynamics from having a fair opportunity to compete under FAR § 16.505. Protest at 6; Comments at 3. However, our Office lacks jurisdiction to consider this challenge to the terms of the TOPR. As discussed above, our Office is authorized to hear protests of solicitations for task orders that are issued under multiple-award contracts, established within the Department of Defense, where the task order is valued in excess of \$25 million, or where the protester asserts that the task order increases the scope, period, or maximum value of the contract under which the order is issued. 10 U.S.C. § 2304c(e); Erickson Helicopters, Inc., supra.

The protester's contention that the agency has failed to provide a fair opportunity to compete is not an assertion that the agency has increased the scope, period, or maximum value of the MQS IDIQ contract. Here, the estimated value of the task order is \$8,693,903, less than the \$25 million threshold necessary to otherwise establish the jurisdiction of our Office. AR, Tab 16, Independent Government Estimate (IGE); see also AR, Tab 15, IGE Individual Position Background. Accordingly, we dismiss this protest ground as our Office does not have jurisdiction in this circumstance to consider the protester's alleged lack of fair opportunity. Erickson Helicopters, Inc., supra, at 13-14.

The protest is denied in part and dismissed in part.

Thomas H. Armstrong  
General Counsel