



Decision

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Matter of: AT&T Mobility LLC

File: B-420494

Date: May 10, 2022

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DIGEST

Protest challenging the agency's evaluation of proposals under the non-price and price factors and alleging the evaluation approach converted a best-value tradeoff procurement into a lowest-priced, technically acceptable competition is sustained because the record shows the agency evaluated in a manner inconsistent with the solicitation and failed to qualitatively compare proposals.

DECISION

AT&T Mobility LLC (AT&T), of Columbia, Maryland, protests the issuance of a federal supply schedule (FSS) order to Cellco Partnership d/b/a Verizon Wireless (Verizon), of Annapolis Junction, Maryland, under request for proposals (RFP) No. 70US0921R70090027, issued by the Department of Homeland Security, United States Secret Service for cellular communications services and equipment. AT&T challenges the agency's evaluation of proposals under the non-price and price factors, and the resulting best-value tradeoff source selection decision.

We sustain the protest.

BACKGROUND

On March 19, 2021, using the procedures of Federal Acquisition Regulation (FAR) subpart 8.4, the agency issued the solicitation to FSS contract holders.¹ Agency Report (AR), Exh. 15, RFP at 792, 798.² The solicitation sought proposals for an:

all-inclusive cellular communications services and equipment contract that guarantees reliable services and devices. The intent is for the [agency] to receive all necessary equipment, services, infrastructure, emergency support and Radio Frequency (RF) engineering or survey support, surcharges as well as any additional labor or roaming costs all at one pre-determined cost.

Id. at 851. The agency's goal with the procurement is to ensure that it "has global cellular services and equipment available for any special event, day to day usage, in-building office, National Security, Global Travel, and special interest domicile coverage and/or support," inclusive of devices and accessories. *Id.* The solicitation contemplated issuance of a single, hybrid fixed-price and time-and-materials order for a 1-year base period, which included a 6-month transition, and four 1-year option periods. *Id.* at 792, 798, 803. The solicitation also required offerors to provide pricing for several optional contract line item numbers (CLINs). *Id.* at 794-797.

As initially issued, the solicitation established that award would be made on a best-value tradeoff basis considering price and the following non-price factors: (1) technical; (2) pass/fail matrix for 111 core requirements from the statement of work (SOW); (3) transition; and (4) corporate experience. Initial RFP at 366-367. The agency later revised the solicitation to remove the pass/fail matrix evaluation factor, to fold consideration of an offeror's ability to meet the SOW's now 112 core requirements into the evaluation under the technical factor, and to add weights to the non-price evaluation factors. RFP Amend. 5 at 448, 504-506, 549.

¹ Although the procurement at issue here was a competition for issuance of an order under a multiple-award FSS contract, the agency issued the solicitation as an RFP, rather than as a request for quotations, and the contemporaneous procurement record as well as the parties' filings refer to the submission of proposals from offerors instead of quotations from vendors. For consistency and ease of reference to the record, we do the same.

² The agency applied continuous, uniform pagination, commonly referred to as Bates numbering, to the exhibits included in its report responding to the protest. Our citations to the record correspond with the Bates numbers appearing on the agency report documents. The final version of the solicitation inclusive of all amendments was submitted by the agency as exhibit 15 in its report; we refer to this exhibit as the "RFP." Our decision also references earlier versions of the solicitation, which we distinguish by referring to either the "Initial RFP" or by the solicitation version's amendment number-- e.g., "RFP Amend. 5."

These revisions continued to be reflected in the final version of the solicitation, which established that the source selection would be made on a best-value tradeoff basis considering price and the following weighted non-price factors: (1) technical (40 percent); (2) transition (40 percent); and (3) corporate experience (20 percent), which included the key personnel experience element. RFP at 840-841. The non-price factors, when combined, were more important than price, though the solicitation provided the agency would “not make an award at a price premium it consider[ed] disproportionate to the benefits associated with the evaluated superiority” of one proposal over another. *Id.* at 840.

For each of the non-price factors, the solicitation provided that the agency would assign an adjectival rating of outstanding, satisfactory, or unsatisfactory. RFP at 842. As relevant here, the agency would assign a rating of satisfactory to a proposal that met the solicitation requirements, had offsetting strengths and weaknesses that would “have little or no impact on contract performance,” and under which “[r]isk of unsuccessful performance [was] no worse than moderate.” *Id.* With respect to price, the solicitation provided that the agency would “evaluate the total proposed price, which includes the base period and all options” for reasonableness, balance, and whether an offeror’s proposed price was “consistent with the Offeror’s technical approach and reflect[ed] a clear understanding of the solicitation requirements.” *Id.* at 843.

The agency received three timely proposals, including those submitted by AT&T and Verizon. AR, Exh. 5, Task Order Selection Official Decision (Selection Decision) at 310. After evaluating initial proposals, the agency concluded that only AT&T and Verizon submitted compliant proposals, and eliminated the third offeror from further consideration for award. *Id.* The agency then entered into “communication exchanges” with, and received proposal revisions from, AT&T and Verizon. *Id.* at 310-311. The evaluators assigned the final proposals of both AT&T and Verizon ratings of satisfactory under each of the three non-price factors, as well as “overall” ratings of satisfactory.³ *Id.* at 317. The agency calculated AT&T’s total evaluated price to be \$19,998,857 and Verizon’s total evaluated price to be \$17,928,540.⁴ *Id.* at 317.

The source selection decision notes that the agency “considered the following significant factors in its decision and in the basis for award: Technical, Pass/Fail Matrix, Transition, Corporate Experience, and Price.” AR, Exh. 5, Selection Decision at 309. The contracting officer, who served as the source selection official (SSO), reviewed the evaluators’ findings under each factor and “did not see any discriminators in AT[&]T’s proposal which would be worth the price premium.” *Id.* at 316-317. The SSO “found the analysis of the Technical Evaluation Report and Price Evaluation Report allow[ed] [the SSO] to accept the lowest priced proposal submitted by Verizon as the overall best

³ As will be discussed below, the RFP did not notify offerors that the agency would derive one “overall” rating for the non-price factors in the evaluation of proposals.

⁴ Prices have been rounded to the nearest dollar.

value for the Government.” *Id.* at 316. The SSO did not identify any perceived benefits of the higher priced proposal submitted by AT&T. *Id.* Following notification of the agency’s source selection decision, AT&T filed this protest with our Office.

DISCUSSION

AT&T presents three primary challenges. First, AT&T contends the agency conducted a pass/fail evaluation under each of the non-price factors, rather than performing a qualitative assessment of proposals. Second, AT&T asserts that the agency improperly converted the source selection from a best-value tradeoff to a lowest-priced, technically acceptable (LPTA) procurement. Finally, AT&T argues that the agency evaluated offerors’ prices in a manner inconsistent with the solicitation. For the reasons discussed below, we sustain the protest.

Non-Price Evaluation

AT&T argues that the agency evaluated proposals on an acceptable/unacceptable basis, rather than performing the qualitative assessment of proposals required by the solicitation under the technical, transition, and corporate experience factors.⁵ Protest at 12-13; Comments at 7-15. In reviewing protests of an agency’s evaluation and source selection decision in procurements conducted under FSS procedures, we do not conduct a new evaluation or substitute our judgment for that of the agency. *U.S. Info. Techs. Corp.*, B-404357, B-404357.2, Feb. 2, 2011, 2011 CPD ¶ 74 at 8-9. Rather, we will review the record to ensure the agency’s evaluation is reasonable and consistent with the terms of the solicitation. *Id.*; *MetroStar Systems, Inc.*, B-419890, B-419890.2, Sept. 13, 2021, 2021 CPD ¶ 324 at 5.

When, as here, a solicitation anticipates the use of a best-value tradeoff evaluation, as opposed to selection based on a low price and technical acceptability, evaluation of proposals is not limited to determining whether a proposal is merely technically acceptable; rather, proposals should be further differentiated to distinguish their relative quality under each stated evaluation factor by considering the degree to which technically acceptable proposals exceed the stated minimum requirements or will better satisfy the agency’s needs. *U.S. Info. Techs. Corp.*, *supra* at 9.

For the technical factor, the agency explains that the technical evaluation team (TET) “reviewed the Technical Requirement Matrix” for each offeror, and “referenced the SOW and the Proposal identifier for each line.” AR, Exh. 2, Contracting Officer’s Statement (COS) at 223. The evaluators then “had consensus discussions for each line item to

⁵ AT&T also contends that the agency failed to assess over a dozen strengths in the protester’s proposal, some under each of the three non-price evaluation factors. Protest at 12-47. As discussed below, because we conclude the agency unreasonably evaluated proposals, we recommend that the agency conduct a new evaluation consistent with the qualitative assessment methodology set forth in the solicitation. In light of our recommendation, we need not address the specific objections to the agency’s evaluation raised by AT&T.

determine if each item was met and if exceed[ed] with an additional benefit to the [agency].” *Id.* The contemporaneous record reflects that the “technical requirements matrix” used by the evaluators was a table that listed the 112 core technical requirements of the SOW next to two columns. AR, Exh. 3, Tech. Eval. Rpt. at 249-261. In the first column, which was labeled “Did Carrier agree to provide this CORE requirement,” the evaluators indicated simply “AT&T has agreed” without any additional comment for all 112 requirements. *Id.* In the second column, which was labeled “Explanation acceptable to what level?,” the evaluators indicated that AT&T’s explanation received a rating of “Satisfactory” without further comment for 108 of the 112 items. *Id.* For four of the items, the evaluators included additional--albeit negligible--comments along with the satisfactory rating.⁶ *Id.* at 249, 258-259.

The protester asserts that the technical requirements matrix used by the evaluators was part of the pass/fail evaluation factor that was removed from the solicitation by amendment 5. Comments at 8-9. The protester also maintains that the adjectival definition ratings set forth in the solicitation for the ratings of outstanding, satisfactory, and unsatisfactory indicated the agency would conduct a qualitative evaluation to assess whether proposals failed to meet, met, or significantly exceeded requirements, as well as determining whether specific elements of proposals constituted strengths, weaknesses, or deficiencies. *Id.* The protester contends that the agency evaluated in a manner inconsistent with the solicitation, however, and that the record shows “the Agency did nothing more than evaluate AT&T’s technical proposal for purposes of determining whether it was ‘Satisfactory’.” *Id.* at 10-12.

For its part, the agency maintains that its evaluation was consistent with the solicitation’s provision that under the technical factor the agency would assess an offeror’s “capability to meet or exceed all one hundred twelve (112) core requirements.” Memorandum of Law (MOL) at 2. The agency further notes that the SOW advised offerors that each of the core technical requirements “must be met in order to be found technically acceptable.” *Id.*, citing RFP at 871. Further, the agency represents that in the SOW itself the agency “provided significant detail explaining the critical information that needed to be in the proposal to achieve a ‘technically acceptable’ rating.” COS at 223. In essence, the agency is arguing that the revised technical evaluation factor included in the final solicitation provided for assessment of an offeror’s proposal on an acceptable/unacceptable basis to determine if it met the level of detail specified in the SOW.

⁶ Specifically, for SOW section 2.6.2, Technology Refresh Periods, the evaluators noted: “AT&T proposed [DELETED] for the base year which is current technology. AT&T did agree to [DELETED] technology for option years making this rating Satisfactory.” AR, Exh. 3, Tech. Eval. Rpt. at 249. Second, for SOW section 2.6, Training, Logistics and Deployment, the evaluators noted: “AT&T agreed, and proposed [DELETED].” *Id.* Third, for SOW section 2.4, “All Inclusive Firm Fixed Pricing,” the evaluators noted: “strength” without further comment. *Id.* at 258. Fourth, for SOW section 2.4.9, “Equipment,” the evaluators noted: “Strength--AT&T offered all accessories 4.0.4.1 through 4.0.4.7.” *Id.* at 258-259.

Where a dispute exists as to a solicitation's actual requirements, we begin by examining the plain language of the solicitation. *MetroStar Systems, Inc.*, *supra* at 11. We resolve questions of solicitation interpretation by reading the solicitation as a whole and in a manner that gives effect to all provisions; to be reasonable, and therefore valid, an interpretation must be consistent with such a reading. *Id.*; *Desbuild, Inc.*, B-413613.2, Jan. 13, 2017, 2017 CPD ¶ 23 at 5. Here, we find the agency's interpretation of the solicitation to be an unreasonable one.

As noted above, the solicitation initially provided for assessment of offerors' technical approaches under two separate evaluation factors--a technical factor and a pass/fail matrix factor, assessing an offeror's agreement to perform the, at the time, 111 specific requirements set forth in the SOW. Initial RFP at 366-367. The solicitation was amended, however, to remove the pass/fail matrix as a separate evaluation factor, and to fold assessment of an offeror's ability to perform the various SOW tasks into the revised technical factor. RFP Amend. 5 at 448, 504-506, 549.

The final solicitation required each offeror to indicate with a "yes" or "no" answer in the provided matrix table, whether it could meet, or could not meet, each of the 112 core technical requirements set out in the SOW. RFP at 871. In addition, the solicitation advised that all of the core requirements "must be met in order to be found technically acceptable." *Id.* For 49 of the 112 core technical requirements, the solicitation also required an offeror to provide a "thorough explanation in the proposal to address how they will be achieved." *Id.* at 871-877. Under the technical factor, the solicitation reiterated that each offeror was required to submit both "a narrative illustrating how it plans to meet the technical requirements," including a "detailed and comprehensive explanation of how it proposes to meet objectives," as well as the completed matrix table, indicating whether it is able to meet each requirement. *Id.* at 841. The solicitation then provided that the agency would evaluate offerors' "capability to meet or exceed all one hundred twelve (112) core requirements" listed in the SOW, and assigned the technical factor a weight of 40 percent. *Id.*

We find unavailing the agency's argument that the solicitation as amended contemplated the type of acceptable/unacceptable assessment of proposals conducted by the evaluators here. The agency's reliance on the SOW's statement--that offerors must agree to meet all 112 core requirements to be found technically acceptable--fails to read the solicitation as a whole. Specifically, the agency's argument gives no effect to the solicitation provisions requiring offerors to provide, and the agency to assess, detailed narrative descriptions for many of the requirements. Additionally, the agency's argument ignores the fact that the solicitation was revised to remove the type of pass/fail evaluation the agency now purports was permitted. Further, the agency ignores the solicitation revision assigning a weight of 40 percent to both the technical and transition factors and a weight of 20 percent to the corporate experience factor. By establishing two of the non-price factors as more important than the third, the solicitation signaled to offerors that the agency would undertake a qualitative assessment of their approaches. Absent such a qualitative assessment, the

solicitation's weighting of two of the evaluation factors as more important than the third factor would be rendered meaningless. See *Helicopter Transport Servs. LLC*, B-400295, B-400295.2, Sept. 29, 2008, 2008 CPD ¶ 180 at 5 (concluding that the agency's decision to evaluate the most important tradeoff factor as pass/fail was "inconsistent with this announced evaluation scheme because it effectively gives no weight to [that factor] in the trade-off decision and makes the three less important factors the determining factors for award").

The record before us is devoid of any meaningful qualitative analysis of proposals under the technical factor. Rather, the record reflects that the agency improperly evaluated on the basis of the pass/fail matrix that had been removed as a stand-alone evaluation factor.

Similarly, for the transition factor, the technical evaluation report indicates that AT&T agreed to the various requirements set forth in the solicitation (e.g., single point of contact, transition timeline, absorbing transition costs); that AT&T "did identify known risks with potential migration," as the solicitation required; and that its proposal was "written very well and addresses all critical needs." AR, Exh. 3, Tech. Eval. Rpt. at 261-262; see also RFP at 856, 877-879 (setting out requirements noted as agreed to by AT&T). These findings led the evaluators "to believe that AT&T is willing and able to provide the most uninterrupted transition possible," and to assign AT&T a rating of satisfactory. AR, Exh. 3, Tech. Eval. Rpt. at 261. Other than observing that AT&T's proposal was well written, the only other assessment of the proposal not related to indicating that AT&T had agreed to provide transition services as required by the solicitation, is the evaluators' statement that "AT&T proposed reasonable processes for distribution, porting, activation and payment during the transition period." AR, Exh. 3, Tech. Eval. Rpt. at 262.

The protester contends that this evaluation "consists of nothing more than factual statements that AT&T's proposal agreed to and met a series of minimum RFP requirements," and that the agency failed to perform any qualitative assessment. Comments at 13. The agency explains that the evaluators "didn't identify any weakness or deficiencies in the proposed AT&T's transition plan [sic], and did make note of AT&T's willingness and abilities to meet the Agency's challenging requirements." COS at 224.

As discussed above, the solicitation's weighting of the transition factor, as constituting 40 percent of the value of the three non-price factors, indicated that the agency would undertake some form of a qualitative assessment of offerors' approaches. Here, however, the record reflects only that the agency's evaluation consisted primarily of determining that AT&T had agreed to meet various transition requirements set forth in the solicitation. Based on the record before us, we conclude that the agency failed to perform the kind of qualitative analysis contemplated by the solicitation, as set forth in amendment 5 to the RFP.

Finally, for the corporate experience factor, the record reflects the following evaluation: “AT&T provided all necessary documentation and references to compare the same or larger accounts showing that AT&T’s experience will meet the [agency’s] requirements. AT&T provides FirstNet service and is currently expanding their network coverage. AT&T has provided satisfactory awards [within] the last 3 years that shows satisfactory company performance.” AR, Exh. 3, Tech. Eval. Rpt. at 264. For the key personnel experience component of this evaluation factor, the record reveals this sole assessment: “AT&T provided resumes for the Account Manager [name] and Program Manager [name]. Both individuals have the required experience to meet [the agency’s] requirement for Key Personnel.” *Id.*

The protester argues that this record “provides even further evidence that the Agency treated the evaluation as a simple assessment of whether the offerors were acceptable or unacceptable.” Comments at 13. The protester asserts that the evaluation “was limited to checking the box to indicate whether or not AT&T met the minimum requirements of the RFP.” *Id.* at 14. The agency explains that the evaluators “applied the same evaluation baseline to all Offerors and ensured that all relevant experiences were duly reviewed and taken into consideration against the established criteria as per solicitation terms.” COS at 225.

Based on the record before us, we conclude that, as under the technical and transition evaluation factors, the agency assessed the protester’s corporate and key personnel experience primarily on an acceptable/unacceptable basis without performing the kind of qualitative analysis required by the amended solicitation. Accordingly, we sustain the protester’s challenge to the agency’s evaluation under the non-price factors. See e.g., *M7 Aerospace LLC*, B-411986, B-411986.2, Dec. 1, 2015, 2016 CPD ¶ 100 at 5 (sustaining protest when the consensus evaluation materials and source selection decision included no qualitative assessment or critical analysis of the relative merits of the offerors’ proposals).

Source Selection Decision

In addition to challenging multiple aspects of the agency’s evaluation of proposals, AT&T challenges the agency’s source selection decision. AT&T contends that the SSO failed to look behind the adjectival ratings in concluding that the vendors were technically equivalent and selecting the awardee’s lower-priced proposal as the best value. Protest at 53-54; Comments at 15-17, 19, 66-67, 69, 74-76. The agency acknowledges that “the contract was awarded based on a best value criterion to the lowest priced proposal,” and that it did not conduct a price/technical tradeoff because the SSO did not see any discriminators in AT&T’s proposal “worth considering for a trade-off in value over price.” COS at 228. The agency maintains that its “best value decision was reasonable and supported by the solicitation requirements, evaluation factors, and the contents of AT&T’s proposal.” MOL at 8. We disagree.

In the source selection decision, the SSO recited the evaluators’ findings for AT&T’s proposal under the transition and corporate experience factors and then added that

“AT&T responded affirmatively to all 112 Pass/Fail Criteria” under the technical factor. AR, Exh. 5, Selection Decision at 313-314. Next, the SSO summarized the technical evaluation of the three offerors, with the summary consisting of a recitation of the rating received by each offeror, followed by a paraphrasing of the rating’s definition as set forth in the solicitation. *Id.* at 316. For example, the SSO’s summary for AT&T reads in full: “AT[&]T received a rating of ‘Satisfactory’ as documented in the Technical Evaluation Report, which indicates a clear understanding of the requirements under which their approach meets performance or capability standards.” *Id.* The record reflects that the source selection decision does not include any review or discussion of what the perceived benefits of either proposal were, or of the qualities in the proposals upon which the evaluators based their assessment of adjectival ratings. *See id.*, *generally.*

With respect to comparing the two proposals, the SSO noted that the evaluators “assigned the same overall rating of Satisfactory” to AT&T and Verizon, and that the SSO had reviewed the evaluators’ comments and agreed with their “confidence in both AT[&]T and Verizon’s ability to execute the requirements with a sound approach, and in their ability to successfully perform under the contract.” AR, Exh. 5, Selection Decision at 317. The SSO then commented on the “considerable” price difference of approximately \$2 million between AT&T and Verizon.⁷ *Id.* The SSO then concluded that “[w]ith AT[&]T and Verizon being rated equally by the [evaluators] and both receiving an overall rating of Satisfactory, I did not see any discriminators in AT[&]T’s proposal which would be worth the price premium of \$2,070,316.80 over the proposal submitted by Verizon.” *Id.*

While an agency is not obligated to extensively document every consideration made in its source selection decision, it is required to adequately explain and document the basis for its determination. *W.W. Grainger, Inc.*, B-420045, B-420045.2, Nov. 4, 2021, 2021 CPD ¶ 358 at 11. An agency that fails to adequately document its source selection decision bears the risk that our Office may be unable to determine whether the decision was proper. *Apogee Eng’g, LLC*, B-414829.2, B-414829.3, Feb. 21, 2019, 2019 CPD ¶ 85 at 10; *Arctic Slope Tech. Servs., Inc.*, B-411776, B-411776.2, Oct. 20, 2015, 2017 CPD ¶ 6 at 5.

Moreover, our Office has consistently explained that agencies may not base their selection decisions on adjectival ratings alone, as such ratings serve only as guides to intelligent decision-making; source selection officials are required to consider the underlying bases for ratings, including the advantages and disadvantages associated with the specific content of competing proposals. *Deloitte Consulting LLP*, B-417988.2 *et al.*, Mar. 23, 2020, 2020 CPD ¶ 128 at 11; *see also W.W. Grainger, Inc.*, *supra* at 11; *Apogee Eng’g, LLC*, *supra* at 11; *Arctic Slope Tech. Servs., Inc.*, *supra* at 7. While agencies may find that proposals are technically equivalent, the selection official must

⁷ Though, as discussed below, had the agency used the price evaluation methodology set forth in the solicitation the price difference between the two offerors would have been approximately \$[DELETED].

explain the basis for such a finding. *Id.* In this regard, when a selection official reasonably regards proposals as being essentially equivalent technically, price properly may become the determining factor in making award, and it is not necessary to perform a price/technical tradeoff. *W.W. Grainger, Inc., supra* at 11; *Apogee Eng'g, LLC, supra* at 11 and 11 n.8. The factual predicate underlying these principles, however, is that the agency has reasonably determined that the two proposals are technically equivalent based on a documented qualitative assessment of proposals.

In contrast, the record is simply devoid of any qualitative discussion of the underlying merits of the proposals and why they should have been considered technically equivalent. The only comparison of the proposals in the record before us is the SSO noting that both proposals received ratings of satisfactory.⁸ We recognize that the procurement at issue here was conducted using the procedures of FAR subpart 8.4, which provide for a streamlined procurement process with minimal documentation requirements. See FAR 8.405-2(f); *Neopost USA Inc., B-404195, B-404195.2, Jan. 19, 2011, 2011 CPD ¶ 35* at 7. We conclude, however, that the contemporaneous record here does not demonstrate that the SSO meaningfully looked behind the adjectival ratings to consider the qualitative value of the proposals in determining that they were technically equivalent.

Agencies cannot announce in a solicitation an evaluation scheme that provides for a tradeoff analysis with the technical factors being considered more important than price and then disregard the stated evaluation scheme and make award on a lowest-priced, technically acceptable basis. *GlassLock, Inc., B-299931, B-299931.2, Oct. 10, 2007, 2007 CPD ¶ 216* at 7. Accordingly, we sustain the protester's challenge to the source selection decision. See *GlassLock, Inc., supra* at 7-8 (sustaining protest when the selection decision did not include "any analysis, determination or even statement that [the awardee's] lower price offset the technical advantages that could result from [the protester's] quotation's higher technical ratings); *Apogee Eng'g, LLC, supra* at 11 (sustaining protest when the selection official selected the lowest-priced proposal from amongst three that received ratings of exceptional without looking behind the ratings to compare the differing strengths assessed in each offeror's proposal); *M7 Aerospace LLC, supra* at 7 (sustaining protest when "the contemporaneous record [did] not include any information to support the conclusion that the agency, in making its source selection, performed a meaningful, qualitative assessment or critical, comparative analysis of the proposals under the technical evaluation factor").

⁸ Moreover, as previously noted, the RFP did not expressly state, nor were offerors notified, that proposals would be evaluated and assigned an "overall" rating for the combined three non-price factors. The TET, however, did just that, and the SSO, in the source selection decision, compared proposals using price and the "overall" rating for the non-price factors. AR, Exh. 5, Selection Decision at 317. The agency's derivation of an "overall" non-price rating relegates the three identified non-price factors to a subordinate role where proposals would be assessed an "overall" non-price rating, and that overall rating would be used (along with price) as the basis to compare proposals--a methodology that was not explicitly contemplated by the solicitation.

Price Evaluation

Finally, with regard to price, the solicitation provided that the agency would “evaluate the total proposed price, which includes the base period and all options.” RFP at 843. The solicitation further established that “[f]or evaluation purposes, the Total Evaluated Price will be the sum of all CLIN amounts and prices proposed (inclusive of all options).” *Id.* at 837. The record reflects, however, that the agency evaluated offerors’ proposed 6-month transition pricing and optional CLIN pricing, but that those prices were “not included in the Total Evaluated Price and for the final selection determination.” AR, Exh. 4, Price Evaluation Report (Price Eval. Rpt.) at 288, 301, 305; Exh. 5, Selection Decision at 312, 316.

The protester asserts that the agency’s price evaluation was flawed because, contrary to the solicitation’s express terms, the agency excluded pricing for the transition portion of the base year and pricing for the optional CLINs from the price calculations used in the source selection decision. Protest at 47-51; Comments at 60-63, 68-69. The agency explains that transition pricing and optional CLIN pricing were “duly evaluated” but not included in the total evaluated price calculated for each offeror “to ensure all offerors would have equal competitive footing.” COS at 225. The agency maintains that it decided not to consider transition pricing as part of the source selection decision because “to do so would likely place AT&T at a competitive disadvantage.”⁹ MOL at 7.

The record before us shows that offerors’ pricing for the 6-month transition period and optional CLINs were not included in the agency’s calculations of total evaluated price, contrary to the terms of the solicitation. AR, Exh. 4, Price Eval. Rpt. at 288, 301, 304; Exh. 5, Selection Decision at 312, 316; RFP at 837, 843. The agency does not dispute that it excluded offerors’ transition and optional CLIN pricing from the price calculations used in the source selection decision. See *generally* COS and MOL. Rather, the agency contends that its evaluation of prices in a manner inconsistent with the solicitation is a non-prejudicial error because “[e]ven if transition prices and/or optional CLINs were considered, Verizon’s price was still considerably lower than AT&T’s.” MOL at 7, 9.

For its part, AT&T acknowledges that it “would remain higher priced, had the Agency properly calculated [total evaluated prices],” but notes that the amount by which it would have been higher priced would have decreased had the agency calculated prices as set forth in the solicitation. Comments at 65. AT&T maintains that the reduction in the price differential between its own proposal and that of Verizon could have impacted the

⁹ While the agency argues that it excluded transition pricing from the source selection consideration in order to prevent putting AT&T at a competitive disadvantage, we note that the record shows AT&T’s proposed transition pricing was almost [DELETED] that of Verizon’s. AR, Exh. 4, Price Eval. Rpt. at 300.

source selection decision had the agency conducted a qualitative comparison of proposals, as required by the solicitation.¹⁰ *Id.*

Competitive prejudice is an essential element of every viable protest. *MetroStar Systems, Inc.*, *supra* at 9. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions; that is, unless the protester demonstrates that, but for the agency's actions, it would have had a substantial chance of receiving the award. *Id.*; *DigiFlight, Inc.*, B-419590, B-419590.2, May 24, 2021, 2021 CPD ¶ 206 at 8.

Here, had the agency's improper price evaluation been the only error reflected in the record, it may have been possible to conclude that the protester failed to demonstrate how it was competitively prejudiced--in light of the fact that its proposal would remain higher-priced--even if the evaluation error were corrected. *See e.g., Deloitte & Touche, LLP*, B-420038 (concluding that protest was not prejudiced by an error in the agency's evaluation of price when the protester had "not provided our Office with any proposed price evaluation methodology in which [the protester's] overall price would be evaluated as lower than [the awardee's] price").

As we discuss above, however, the record reflects errors not just in the agency's evaluation of prices, but also in its evaluation of proposals under the non-price factors, as well as in the agency's source selection decision. Specifically, the record indicates that, in essence, the agency conducted the procurement on a lowest-priced, technically acceptable basis, contrary to the terms of solicitation. Accordingly, we cannot conclude with any certainty that, had the agency evaluated proposals consistent with the terms of the solicitation and performed a proper tradeoff analysis, that the SSO would have made the same selection decision. In such circumstances, we resolve doubts regarding prejudice in favor of a protester as a reasonable possibility of prejudice is a sufficient basis for sustaining a protest. *MetroStar Systems, Inc.*, *supra* at 10. Thus, we conclude that AT&T has established the requisite competitive prejudice to prevail in its bid protest, and we sustain the protester's challenge to the agency's price evaluation.

RECOMMENDATION

We recommend that the agency take one of the following courses of action. The agency should reevaluate proposals in accordance with the current terms of the solicitation, giving each evaluation factor its appropriate weight. Following the reevaluation, the agency should make a new source selection decision in accordance with the solicitation's current best-value tradeoff methodology. In the event the

¹⁰ As calculated by the agency, without transition or optional CLIN pricing, AT&T's total evaluated price was \$19,998,857 and Verizon's was \$17,928,540--a difference of approximately \$2 million. AR, Exh. 4, Price Eval. Rpt. at 300. The record reflects that had the agency included transition and optional CLIN pricing in its calculations, as required by the solicitation, the price difference between AT&T and Verizon would have been reduced to approximately \$[DELETED]. *Id.* at 306-307.

protester's proposal is determined to be most advantageous to the government, the agency should terminate for the convenience of the government the order issued to Verizon.

Alternatively, the agency may choose to reassess its requirements and method of source selection, and, if necessary, amend the solicitation to properly reflect the agency's intended source selection methodology. If the solicitation is amended, offerors should be provided the opportunity to submit revised final proposals. The agency should then conduct new evaluations, in accordance with the revised solicitation, and make a new source selection decision.

We also recommend that the protester be reimbursed the cost of filing and pursuing this protest, including reasonable attorneys' fees. See Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1). AT&T should submit its certified claim for costs, detailing the time expended and costs incurred, directly to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

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General Counsel