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Decision

Matter of: Catalyst Solutions, LLC

File: B-423269.2

Date: April 23, 2025

Milton C. Johns, Esq., Executive Law Partners, PLLC, for the protester.
Jared M. Miller, Esq., and Lisa L. Baker, Esq., United States Marine Corps, for the agency.
Paula A. Williams, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the scope of the agency's corrective action that includes amending the solicitation to include a provision for a price realism evaluation is denied where the agency acted within its discretion to reasonably determine what corrective action is appropriate to remedy a flaw in the procurement process.

DECISION

Catalyst Solutions, LLC (Catalyst), a service-disabled veteran-owned small business (SDVOSB) located in Stafford, Virginia, protests the corrective action undertaken by the United States Marine Corps (USMC), in response to Catalyst's protest challenging the agency's issuance of a competitive task order to Alexandria Insights, Inc. (Alexandria Insights), located in Stafford, Virginia, pursuant to request for proposals (RFP) No. M67854-24-R-3014, to provide program management support services. The protester alleges that the agency's proposed corrective action is unreasonable.

We deny the protest.

BACKGROUND

The RFP, issued on September 16, 2024, pursuant to Federal Acquisition Regulation section 16.505 to SDVOSB firms in the National Capital Zone 2 under the Department of the Navy's SeaPort indefinite-delivery, indefinite-quantity contract, sought proposals for a contractor to provide support services for the USMC's Program Manager Expeditionary Radars portfolio to include both the ground/air task oriented radar program management and product manager future radar systems. The solicited

support services include program management; acquisition and scheduling; business and finance; logistics, fielding and training; and engineering, manufacturing and testing-related activities to include acquisition policy and program documentation development. B-423269, Protest exh. 1, RFP at 8.¹

The RFP anticipated issuance of a single, fixed-price task order on a best-value tradeoff basis for a 5-year period of performance. *Id.* at 80. The best-value decision was to be based on the following evaluation factors: technical; past performance; and price. *Id.* Under the solicitation's evaluation criteria, the technical factor was more important than past performance, and both non-price factors, when combined, were more important than price. *Id.* The solicitation also established that the agency might issue the task order to other than the lowest-priced or highest-rated offeror. *Id.*

The technical factor was comprised of three task elements: technical approach and understanding; management approach; and transition plan. *Id.* at 80-81. Under these task elements, proposals would be assigned ratings of significant strengths, strengths, weaknesses, significant weaknesses, or deficiencies as defined in the solicitation and proposals would be assigned overall ratings of either outstanding, good, acceptable, marginal, or unacceptable under the technical factor. *Id.* at 81-82.

Two offerors submitted timely proposals in response to the solicitation--Catalyst and Alexandria Insights. Following the evaluation of proposals, the agency assigned Catalyst's technical proposal an overall rating of acceptable with an evaluated total price of \$35,431,630. See B-423269, Protest exh. 3a, Technical and Past Performance Eval. at 1; exh. 3b, Price Eval. Report at 2. The agency assigned Alexandria Insights' technical proposal an overall rating of outstanding with an evaluated total price of \$53,917,708. *Id.*, exh. 3b, Price Eval. Report at 2; Protest exh. 3, Post-Award Debrief at 2. The agency determined that Alexandria Insights' higher-rated, higher-priced proposal represented the best value to the government and issued the task order to Alexandria Insights on December 20, 2024.

On January 7, 2025, after receipt of the award notice and a debriefing, Catalyst filed a protest challenging the issuance of the task order to Alexandria Insights, which our Office docketed as B-423269. In that protest, Catalyst alleged that the agency unreasonably evaluated its technical proposal as acceptable, raising a number of challenges to the agency's assessment of significant weaknesses and weaknesses in its proposal. Additionally, Catalyst alleged that the agency's best-value tradeoff analysis was unreasonable, arguing that USMC failed to reasonably explain or document why the 52 percent price premium associated with selecting Alexandria Insights' higher-priced proposal was justified.

¹ Citations to the RFP are to amendment 0002, which was provided in Catalyst's prior protest B-423269, as Protest exhibit 1. References to RFP page numbers in the decision are to the Adobe PDF paginations.

On January 27, after reviewing Catalyst's protest, USMC advised our Office of its intent to take voluntary corrective action. Specifically, the agency would: (1) amend the solicitation to include a provision to evaluate proposals for price realism; (2) request and evaluate revised price proposals for realism; (3) conduct a new evaluation of technical proposals; and (4) conduct a new tradeoff analysis and source selection decision. See B-423269, Notice of Corrective Action at 1. As a result of the agency's proposed corrective action, our Office dismissed the protest as academic. *Catalyst Solutions, LLC*, B-423269, Jan. 29, 2025 (unpublished decision).

Thereafter, Catalyst filed this protest challenging the scope of the proposed corrective action, which our Office docketed as B-423269.2.²

DISCUSSION

Catalyst objects to the scope of the agency's corrective action. Specifically, Catalyst argues that it is unreasonable for the agency to amend the solicitation to include a provision for price realism because, in its prior protest, it did not allege that the agency failed to evaluate proposals for realism. Therefore, the protester asserts, USMC cannot justify this aspect of the proposed corrective action on the basis of any need to remedy a perceived defect that did not exist. See *generally*, Protest at 4-6. According to the protester, the corrective action notice "presents no explanation of how a price realism analysis is related to a revised best value tradeoff decision" *id.* at 4, alleging that the agency's corrective action should be limited to the defects it is intended to remedy.

In support of its position, the protester relies on prior decisions of our Office, including *Kupono Gov't Servs., LLC; Akima Sys. Eng'g, LLC*, B-421392.9 *et al.*, June 5, 2023, 2023 CPD ¶ 136, in which we sustained a protest of a corrective action on the basis that there was no explanation in the contemporaneous record related to the supposed flaw in the procurement that supported that agency's decision to take corrective action. Among other findings, we stated that when an agency undertakes corrective action, the underlying reasons for the agency decision must be meaningfully explained so that our Office can assess whether the proposed corrective action is appropriate to remedy the defects identified by the agency in the procurement process. *Kupono Gov't Servs., LLC; Akima Sys. Eng'g, LLC, supra* at 3.

USMC responds that its decision to amend the solicitation to include a provision for evaluation of price realism was to address additional concerns identified in this procurement process. In this regard, the contracting officer explained that any concerns with unrealistic pricing during the initial evaluation was mitigated by the fact that the agency ultimately selected Alexandria Insights' higher-rated, higher-priced proposal. According to the agency:

² As noted, the awarded value of the previously awarded task order exceeded \$35 million. Accordingly, this protest is within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts that were awarded under the authority of title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B).

During price evaluation, the Agency noted wide pricing discrepancies in the proposals it received from all offerors. After concluding the technical and past performance evaluations, I determined that the addition of a price realism provision and new round of price evaluation was not necessary as, pursuant to the relative importance of the three evaluation factors, [Alexandria Insights'] proposal was the most advantageous to the Government and its offer price was in line with the Government's Independent Government Cost Estimate.

Contracting Officer's Statement at 2-3 (internal citation omitted).

The agency represents that after reviewing Catalyst's initial protest challenging the award decision, the contracting officer determined that taking corrective action to amend the solicitation to include a provision for price realism was in the best interests of the government. In this regard, to the extent that the agency's reevaluation could result in the consideration of significantly lower-priced proposals for award, the agency believed it was important to assess whether the prices of such proposals were realistic during the reevaluation. Specifically, the contracting officer stated:

Given that some pricing received from the original proposals was so drastically low, I am reasonably concerned that it demonstrates a failure to comprehend the complexity and risk of contract requirements. If an offeror were to receive the award, and subsequently be unable to perform at the award price, the disruption to [Program Manager] Expeditionary Radars would be significant. . . .

Id. at 3.

Given these identified concerns, the agency argues that amending the solicitation to include a provision for price realism and allowing offerors to submit revised price proposals, would allow the agency to assess whether the selected contractor can perform the entirety of the solicited services at its offered price. Memorandum of Law at 6-7. USMC therefore asserts that this aspect of the agency's proposed corrective action is reasonable to address the concerns that it identified. *Id.*

Contracting agencies have broad discretion to take corrective action where the agency determines that such action is necessary to ensure a fair and impartial competition, and, generally, the details of a corrective action are within the sound discretion and judgment of the contracting agency. *Anders Constr., Inc.*, B-420717, July 20, 2022, 2022 CPD ¶ 187 at 3. Our Office will not object to any particular corrective action so long as it is appropriate to remedy the reasonable concern that caused the agency to take corrective action. See e.g., *360 IT Integrated Solutions; VariQ Corp.*, B-414650.19 *et al.*, Oct. 15, 2018, 2018 CPD ¶ 359 at 6 *citing MSC Indus. Direct Co., Inc.*, B-411533.2, B-411533.4, Oct. 9, 2015, 2015 CPD ¶ 316 at 5; see also, *Bannum, Inc.-- Protest and Recon.*, B-411074.2, B-411074.3, June 12, 2015, 2015 CPD ¶ 231 at 3.

Moreover, our review is generally limited to whether the agency's corrective action is appropriate to remedy the flaw which the agency believes exists in its procurement process, see *Onésimus Def., LLC*, B-411123.3, B-411123.4, July 24, 2015, 2015 CPD ¶ 224 at 5, and not whether the agency's corrective action remedies the flaws alleged in a prior protest where no decision on the merits was issued by our Office. *Sealift, Inc.*, B-412041.2, Dec. 30, 2015, 2016 CPD ¶ 9 at 4.

Here, based on the record presented, we find no basis to object to the agency's proposed corrective action. USMC's judgment that amending the solicitation to include a provision for price realism as part of its corrective action was necessary to address additional concerns with the procurement, is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the agency's judgment was unreasonable. As noted, the agency has explained that because of the significant spread between the proposed prices in the initial proposals, where at least one appeared relatively low, the contracting officer believes that some of the initial proposed prices may reflect the offerors' failure to comprehend the complexity and risks associated with the solicited requirements. The agency also has explained that because the task order will be issued on a fixed-price basis, the agency wants to avoid a scenario where the selected contractor is unable to perform the contract requirements at the awarded price. In this regard, amending the solicitation to put offerors on notice that USMC will perform a price realism evaluation would allow the agency to address these risks when making its award decision.

Our Office has explained that an agency may conduct a price realism evaluation in connection with the issuance of a fixed-price task order for the limited purposes of measuring an offeror's understanding of the solicitation's requirements or to assess the risk inherent in an offeror's proposal. See, e.g., *R3 Gov't Sols., LLC*, B-404863.2, Sept. 28, 2012, 2012 CPD ¶ 284 at 5; *Puglia Eng'g of California, Inc.*, B-297413 *et al.*, Jan. 20, 2006, 2006 CPD ¶ 33 at 6. While Catalyst disagrees with the agency's judgment, the protester fails to show that amending the solicitation to include a provision for price realism as part of USMC's proposed corrective action is unreasonable or otherwise violates applicable procurement law or regulation.

To the extent the protester alleges that amending the solicitation to include a price realism provision and requesting revised price proposals will cause Catalyst competitive harm because its price has been exposed, we have recognized that the possibility that a contract may not have been awarded based on a fair determination of the most advantageous proposal has a more harmful effect on the integrity of the competitive procurement system than does the possibility that a competing offeror will be at a disadvantage in a reopened procurement because its price has been exposed. See *Northrop Grumman Info. Tech., Inc.*, B-404263.6, Mar. 1, 2011, 2011 CPD ¶ 65 at 3.

Accordingly, under these circumstances, we find the agency's proposed corrective

actions were a reasonable means of remedying the identified agency concerns to ensure a fair and impartial competition.

The protest is denied.

Edda Emmanuelli Perez
General Counsel