



## Decision

**Matter of:** Lawrence Battelle, Inc.

**File:** B-404775

**Date:** May 11, 2011

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Jennifer Battelle Logan for the protester.  
Col. Mark S. Teskey, Michael G. McCormack, Esq., and Thomas J. Faulconer, Esq.,  
Department of the Air Force, for the agency.  
Cherie J. Owen, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

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### DIGEST

Protester's contention that its proposal was improperly excluded from the competitive range is denied where the protester has not shown that the agency's evaluation was unreasonable or inconsistent with the stated evaluation criteria.

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### DECISION

Lawrence Battelle, Inc. protests the elimination of its proposal from the competitive range by the Department of the Air Force under request for proposals (RFP) No. FA8721-10-R-0001 for a broad range of cost estimating/analysis/research technical services. Lawrence Battelle argues that the agency applied unstated evaluation criteria and conducted an unreasonable evaluation of its proposal.

We deny the protest.

### BACKGROUND

The Air Force issued the RFP on September 15, 2010, seeking a broad range of cost estimating/analysis/research technical services for the Air Force Material Command's Electronics Systems Center. This Center manages the development and acquisition of electronic command and control systems that gather and analyze information on potentially hostile forces. Contracting Officer's Statement at 1. The RFP anticipated multiple awards of indefinite-delivery/indefinite-quantity (ID/IQ) contracts, for an ordering period of 5 years from the date of award.

The RFP provided for a best value source selection decision that permitted a performance/price tradeoff. Agency Report (AR), Tab 3e, RFP § M, at 1. The solicitation stated that proposals would be evaluated on the basis of three factors: technical acceptability, cost/price, and performance confidence assessment. Id. at 2-7. The technical acceptability factor was divided into two subfactors: the program and personnel management subfactor and the technical capability subfactor. Id. at 2. Each of these subfactors was further broken down into four sub-subfactors.

As relevant here, the RFP stated that in order to be considered acceptable under the program and personnel management subfactor, an offeror's proposal must furnish a transition plan that demonstrated the offeror's ability to be fully operational and capable of fulfilling the Cyber/Netcentric objectives within 30 days after the effective start date. The RFP further specified that the transition plan must sufficiently address, among other things, maintaining continuity of services, minimizing or eliminating potential disruptions, planning for contingencies and risk mitigation, and an approach for staffing resources "in order for transition." Id. at 3. Offerors' transition plans were also required to address a resource allocation process that identified resources necessary to implement a proposed solution to meet the requirements of the Cyber/Netcentric Directorate program offices. Id. To be considered acceptable under the technical capability subfactor, offerors were to, among other things, demonstrate their ability to support the program offices of the Cyber/Netcentric Directorate with qualified personnel that possessed security clearances. Id. at 4.

Technical proposals were to be rated on an adjectival scale of acceptable, reasonably susceptible of being made acceptable, or unacceptable. Id. at 4. To receive a rating of acceptable under the technical evaluation factor, the RFQ required that offerors demonstrate a clear understanding of all elements of each technical subfactor and demonstrate an ability to perform at a satisfactory level all task order performance work statement and Cyber/Netcentric statement of objectives requirements. Id. at 2. The solicitation also provided:

The Government may reject any proposal that is evaluated to be unrealistic in terms of program commitments such that the proposal is deemed to reflect an inherent lack of competence, failure to comprehend the complexity and risks of the program, or failure to respond to Section L instructions. Unrealistic program commitments include contract terms and conditions, or unrealistically high or low costs/prices . . .

Id. at 2 (emphasis added). On another page of the solicitation, the RFP reiterated that "[a]ll technical acceptability criteria standards must be met to be considered [a]cceptable and [to] be further considered for award." Id. at 4. The RFP stated that past performance was significantly more important than cost. Id. at 4.

The Air Force received a total of three proposals by the October 20, 2010 due date, including the proposal submitted by Lawrence Battelle. With regard to the technical acceptability evaluation factor, the agency found Lawrence Battelle's proposal unacceptable under both subfactors. AR, Tab 11, Notice of Elimination from the Competitive Range, at 1. Under subfactor 1, program and personnel management, the agency assigned deficiencies for the following: (1) the proposal failed to adequately address and substantiate the approach for staffing resources in order to transition<sup>1</sup>; (2) the proposal stated that subcontractor resources could assist in maintaining continuity of services, but it was not evident that Lawrence Battelle (the prime contractor) would incur at least 50 percent of the cost as required by relevant regulations; (3) the proposal failed to demonstrate a plan for training personnel to acquisition professional development program (APDP)-like certification levels; and (4) the proposal failed to provide staffing for Cyber/Netcentric programs. *Id.* at 13, 15-16.

Under subfactor 2, technical capability, the agency assigned deficiencies for the following: (1) the proposal failed to demonstrate a clear understanding of all Cyber/Netcentric requirements and the ability to fulfill requirements other than integrated baseline review and earned value management; (2) the proposal failed to propose APDP-like certified personnel within the Cyber/Netcentric directorate or provide a plan for personnel to achieve APDP-like certification; and (3) the proposal failed to propose personnel that possess the necessary security clearances within the Cyber/Netcentric directorate, or provide a plan for personnel to obtain security clearances coinciding with the start of the Cyber/Netcentric task order. *Id.* at 18, 21-22.

Under the performance confidence factor, the agency assigned a rating of unknown confidence to the Lawrence Battelle proposal. AR, Tab 10, Competitive Range Briefing, at 87. The agency also noted a number of deficiencies under the cost/price evaluation factor, and found that Lawrence Battelle's price was the highest among the all of the offerors. AR, Tab 11, Notification of Elimination from the Competitive Range, at 5-10; AR, Tab 10, Competitive Range Briefing, at 90. As a result, the agency excluded Lawrence Battelle's proposal from the competitive range.

On January 14, 2011, the agency notified Lawrence Battelle that its proposal had been eliminated from the competitive range. AR, Tab 11, Notification of Exclusion From the Competitive Range. This protest followed.

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<sup>1</sup> Specifically, the agency noted that the proposal lacked historical data to support the offeror's ability to recruit incumbent analysts, and did not explain how 5 key managers could effectively grow the organization six-fold (from 5 managers to 34 employees) while concurrently establishing workload and priorities, collecting cost data, and accomplishing workload until personnel are hired. AR, Tab 11, Notice of Elimination from the Competitive Range, at 13.

## DISCUSSION

Lawrence Battelle challenges various aspects of the agency's technical evaluation, performance confidence assessment, and price evaluation, and alleges that the agency's decision to exclude Lawrence Battelle's proposal from the competitive range was unreasonable. As described below, we have reviewed all of Lawrence Battelle's assertions and find no basis to sustain its protest.

The determination of whether a proposal is in the competitive range is principally a matter within the sound judgment of the procuring agency. Dismas Charities, Inc., B-284754, May 22, 2000, 2000 CPD ¶ 84 at 3. In reviewing an agency's evaluation of proposals and subsequent competitive range determination, we will not evaluate the proposals anew in order to make our own determination as to their acceptability or relative merits; rather, we will examine the record to determine whether the documented evaluation was fair, reasonable, and consistent with the evaluation criteria. Smart Innovative Solutions, B-400323.3, Nov. 19, 2008, 2008 CPD ¶ 220 at 3.

As a part of our consideration of each of Lawrence Battelle's challenges, we have reviewed the pleadings, the evaluation materials, and the protester's proposal. While we do not discuss in detail each of the protester's numerous challenges, we have considered them all and find them to be without merit. We address a few of these arguments below.

For example, under the program and personnel management subfactor, Lawrence Battelle challenges the agency's assignment of a deficiency because the proposal did not adequately address staffing for transition. Protest at 3-5.

As set forth above, the RFP stated that in order to be considered acceptable under the program and personnel management subfactor, an offeror's proposal must furnish a transition plan that demonstrates the offeror's ability to be fully operational and capable of fulfilling the Cyber/Netcentric objectives within 30 days after the effective start date. The transition plan was to address, among other things, maintaining continuity of services, minimizing or eliminating potential disruptions, planning for contingencies and risk mitigation, and an approach for staffing resources in the transition. AR, Tab 3e, RFP § M, at 3.

In addressing this requirement, Lawrence Battelle's proposal stated that it currently had five senior cost estimators on staff, but it would maintain continuity of service by implementing a transition strategy that started with interviewing customers to determine program priorities, then beginning the recruitment process. AR, Tab 9b, Lawrence Battelle's Technical Proposal, at 37-38. The protester proposed to attempt to recruit incumbent analysts, attend job fairs, recruit on college campuses, staff booths at conferences, and post job advertisements on its website and Facebook page. Id. at 38. Lawrence Battelle also noted that, including its subcontractor team members, it had a resource pool of approximately 65 people and that if its

recruitment efforts were unsuccessful, it could call upon its subcontractor team members to provide support. Id. at 38-39, 42.

The agency found, and we agree, that the protester's proposal did not adequately address and substantiate its approach for staffing resources in the transition. Specifically, the firm did not provide data to support its statements that it could successfully increase its staff from just 5 managers to 34 employees by the contract start date, while concurrently establishing workload and priorities, collecting cost data, and accomplishing workload until personnel were hired. Although the protester listed a number of recruiting techniques that it planned to use to increase its staff by nearly 600 percent, the firm did not provide support for its assertions that it would be successful in doing so by the contract start date. See AR, Tab 9b, Lawrence Battelle's Proposal, at 38; AR, Tab 11, Notification of Elimination From the Competitive Range, at 13. We see nothing unreasonable about the agency's conclusion that Lawrence Battelle's unsupported statements that it could successfully grow its business from 5 to 34 between the time of contract award and the contract start date were insufficient to satisfy the RFP's requirements. Therefore, we find no basis to sustain this protest ground.

Lawrence Battelle also challenges the agency's conclusion under the program and personnel management subfactor that it was not clear that Lawrence Battelle--rather than its subcontractors--would incur at least 50 percent of the cost of the contract. Protest at 5.

With regard to the use of subcontractors, the firm stated in its proposal that the fourth step in ensuring continuity of services included relying on its subcontractor team members for providing on-site resources, reach-back support, and surge capabilities, if needed; the proposal also stated that the Lawrence Battelle team, including subcontractor team members, had a resource pool of approximately 65 people. AR, Tab 9b, Lawrence Battelle's Proposal, at 38-39. The firm's proposal further stated that, should a vacancy exist at the time of starting the task order, members of the key management team would divide the workload or call on the subcontractor team members to provide support from their existing pool of resources. Id. at 42. Based on these statements and the fact that only 5 of 34 positions were currently staffed, the agency found, and we agree, that Lawrence Battelle's proposal did not make clear whether Lawrence Battelle (the prime contractor) would still incur at least 50 percent of the personnel costs for contract performance as required by the Federal Acquisition Regulation (FAR) in the event that its extensive recruiting efforts were unsuccessful. See FAR § 52.219-14. Therefore, this evaluation does not provide a basis on which to sustain the protest.

The protester also challenges the agency's assessment of a deficiency under the technical capability subfactor for failure to comply with the RFP's requirement to propose qualified personnel that possess security clearances. Protest at 7. The protester contends that its statement that the firm holds a facility clearance should

have satisfied the RFP's requirements and that the agency's assignment of a deficiency in this regard is unreasonable. Id.

The RFP required that offerors demonstrate their ability to support program offices with qualified personnel with security clearances. AR, Tab 3e, RFP § M, at 4. In its proposal, Lawrence Battelle stated that it holds an active facility clearance and that it planned to ensure that all personnel obtained required clearances by the contract start date. AR, Tab 9b, Lawrence Battelle Proposal, at 61. However, given the fact that the protester intended to recruit the majority of its personnel after the award of the contract<sup>2</sup>, we find it was reasonable for the agency to question the protester's unsupported statement that its employees would have their security clearances prior to the contract start date. See id. at 38. The protester's proposal failed to address how it intended to ensure that all newly hired staff would obtain clearances prior to the start date. Therefore, we find the agency's evaluation in this regard to be reasonable.

Finally, the protester contends that the agency applied unstated evaluation criteria in evaluating several portions of the firm's proposal. For example, Lawrence Battelle contends that the agency's assignment of a deficiency for failure to support the firm's statement that it could recruit incumbent analysts and grow the organization six-fold prior to beginning performance represented an unstated evaluation criterion. Specifically, the protester contends that the agency's observation that the protester had not provided any historical data to support its claims represented an unstated evaluation criterion because the RFP did not require that offerors provide historical data in support of the assertions in their proposals. Protest at 5.

Agencies are required to identify evaluation factors and significant subfactors, but they are not required to identify all areas of each which might be taken into account, provided that any unidentified areas are reasonably related to or encompassed by the stated criteria. Smart Innovative Solutions, supra at 4. Here, the requirement to provide data supporting the protester's claims that it had the ability to recruit incumbent analysts is reasonably related to the evaluation criteria identified under the program and personnel management subfactor that requires contractors to maintain continuity of services, minimize potential disruptions, and offer an approach for staffing resources in order to transition. AR, Tab 3e, RFP § M, at 3. As set forth above, although the protester listed a number of recruiting techniques that it planned to use to increase its staff from 5 to 34, the firm did not provide support for its assertions that it would be successful in doing so by the contract start date. We find the agency's requirement that the protester support its claims with data,

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<sup>2</sup> Also, a portion of the personnel would be recruited on college campuses and through job postings on the internet. AR, Tab 9b, Lawrence Battelle's Proposal, at 38.

including historical data, to be reasonably related to or encompassed by the stated evaluation criteria. Therefore, this protest ground is denied.

In sum, based on our review of the record and considering all of the arguments raised by the protester challenging its rating under the technical factor, including the examples discussed above, we find no basis to question the agency's technical evaluation of Lawrence Battelle's proposal. Because we find that the agency properly evaluated Lawrence Battelle's proposal as unacceptable under the technical evaluation factor, and the RFP provided that all technical acceptability criteria standards must be met to be further considered for award, we need not address the protester's challenges to the past performance and cost aspects of the evaluation. We find that the agency's decision to exclude Lawrence Battelle's proposal from the competitive range was reasonable.

The protest is denied.

Lynn H. Gibson  
General Counsel