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## Decision

**Matter of:** Main Building Maintenance, Inc.  
**File:** B-406615; B-406615.2; B-406615.3  
**Date:** July 23, 2012

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Ronald J. Shaw, Esq., The Shaw Corporation-Attorneys at Law, for the protester.  
LTC Dana J. Chase, Department of the Army, for the agency.  
Paula A. Williams, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protest of agency evaluation and determination to exclude protester's revised proposal from the competitive range is denied where protester fails to show that either was unreasonable.

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### DECISION

Main Building Maintenance, Inc. (MBM) of San Antonio, Texas protests the exclusion of its revised proposal from the competitive range by the Department of the Army, under request for proposals (RFP) No. W81K04-11-R-0019, for healthcare housekeeping and related services at the William Beaumont Army Medical Center (WBAMC) Medical Treatment Facility (MTF), and other MTFs located in the health service area of Fort Bliss, Texas.

We deny the protest.

### BACKGROUND

The RFP was issued as a competitive small business set-aside and contemplated the award of an indefinite-delivery/indefinite-quantity performance-based contract, with fixed-price contract line items, for a maximum period of 5 years. RFP amend. 8, at 67. The selected contractor will perform a broad array of healthcare

housekeeping<sup>1</sup> and related services as described in the solicitation's performance work statement (PWS); all requirements in the PWS were stated to be mandatory. Id. at 66, 116.

The RFP provided that award would be made on a lowest-price, technically acceptable basis. Id. at 108-109. The solicitation identified two evaluation factors: (1) technical acceptability and (2) price. The technical acceptability factor consisted of two equally-weighted subfactors: (1) technical approach, and (2) key personnel and qualifications. Id. at 128. The RFP also stated that the technical evaluation would consider whether the offeror's proposal demonstrated (1) compliance with the solicitation requirements, and (2) understanding of the solicitation requirements. Id. at 129. Each technical proposal would be assigned a rating of either acceptable (proposal clearly meets the minimum solicitation requirements) or unacceptable (proposal does not clearly meet the minimum solicitation requirements). Id.

As a general matter, the RFP indicated that proposals were to be "clear, concise, and shall include sufficient detail for effective evaluation and for substantiating the validity of stated claims." Id. at 109. Offerors were cautioned that they "should not simply rephrase or restate the government's requirements" in their proposals; instead, offerors must furnish convincing narratives describing "how" they intend to meet these requirements. Id.

Under the technical approach subfactor, offerors were to demonstrate how they would perform the required services by providing "specific narrative details and/or descriptions of actual methods, processes, and procedures." Id. at 116. Offerors were also instructed to include the following supplements: (a) transition plan; (b) healthcare housekeeping procedures manual; (c) healthcare housekeeping policies manual; (d) sample work schedules; (e) staffing plan; (f) supply management plan; and (g) quality control. Id. at 111, 116-118.

Under the key personnel and qualifications subfactor, the RFP required offerors to provide "specific details and/or descriptions of proposed key personnel and qualifications policies and procedures" to demonstrate the offeror's "compliance and understanding of the minimum PWS key personnel and qualification requirements." Id. at 118. As to price, the RFP stated that proposed prices would be evaluated to determine if they were fair, reasonable, and balanced. Id. at 132. Offerors were warned that the failure to satisfy one or more of the standards may render the proposal technically unacceptable. Id. at 110, 129.

On January 17, 2012, the agency received four proposals, including the proposal submitted by MBM, the then incumbent contractor. Technical proposals were

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<sup>1</sup> According to the RFP, healthcare housekeeping services are mission-essential functions which must be performed under all circumstances. RFP amend. 8, at 74.

evaluated by a source selection evaluation board (SSEB) which assigned “deficiencies,” “significant weaknesses,” and “weaknesses” ratings to each proposal who then considered those assessments in determining the appropriate rating for each proposal under the technical evaluation factor and subfactors. Agency Report (AR) exh. 6, Initial SSEB Report, at 6-18. The evaluators’ assessments were supported by narrative discussions for each offeror under each evaluation factor and subfactors.

MBM’s proposal was initially rated unacceptable under the technical approach subfactor, and acceptable under the key personnel and qualifications subfactor. In assigning the protester’s proposal an unacceptable rating, the SSEB identified 13 deficiencies, 2 significant weaknesses, and 4 weaknesses. Id. For example, with respect to factor 1, Technical Acceptability, subfactor 1.1, Technical Approach Safety and Health Plan, the SSEB noted that MBM “failed to provide convincing rationale of how the offeror will meet” PWS 1.17, Safety and Health Plan, and also “failed to provide a list of hazardous material . . .” as required by the solicitation. Id. at 7.

Similarly, regarding factor 1, Technical Acceptability, subfactor 1.1., Technical Approach, Emergency Operations Plan (EOP), the SSEB assigned a deficiency on the basis that MBM’s proposal did not furnish a “convincing rationale of how the offeror will meet [the] PWS 1.18 Emergency Operations Plan requirements” and further noted that the protester did not provide “a written plan describing how it will continue to perform the essential contractor services during periods of crisis” as set forth in Defense Federal Acquisition Regulation Supplement provision 252.237-7024, Notice of Continuation of Essential Services. Id. at 8. The evaluators also assessed a deficiency because the protester’s sample work schedules (PWS 5.5, Type 1 Services<sup>2</sup>) evidenced a “lack of understanding” of the required services.<sup>3</sup> Id. at 12-13.

The contracting officer, who was also the source selection authority for this procurement, advised MBM that its proposal had been included in the competitive range and provided MBM with a detailed analysis of the agency’s evaluation of its proposal in the form of evaluation notices (EN). The ENs accompanying the competitive range determination letter identified each of the “deficiencies,”

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<sup>2</sup> Type 1 services are described as healthcare housekeeping services that are generally performed in the operating rooms, scrub rooms and prep rooms associated with the operating room, recovery rooms, central materiel service, labor and delivery, and, recovery and postpartum rooms. RFP amend. 8, at 86.

<sup>3</sup> The above description of deficiencies is not a comprehensive list of all the evaluated weaknesses in MBM’s proposal; rather, for purposes of this decision, we have only listed representative examples.

“significant weaknesses,” and “weaknesses” assigned to MBM’s proposal under the technical evaluation subfactors.<sup>4</sup> AR exh. 7, Competitive Range Determination-Discussions (March 1, 2012).

Subsequent to the written discussions described above, the agency and MBM engaged in oral discussions during which the contracting officer discussed each deficiency, significant weakness, and weakness identified in the list of 20 ENs previously provided to MBM. Id. exh. 9, Oral Discussions Letter (Mar. 7, 2012).

At the conclusion of discussions, MBM submitted its revised proposal, which was again evaluated for technical acceptability. The SSEB continued to rate it as technically unacceptable under the technical approach subfactor, noting that 3 of the 13 identified deficiencies remained unresolved because the protester’s narrative responses continued to lack the required detail to alleviate the government’s concerns. The evaluators also identified 4 significant weaknesses, and 1 weakness in the protester’s revised proposal. Id. exh. 12, Supplemental SSEB Report, at 16. The contracting officer concurred with the SSEB’s evaluation findings, and eliminated MBM from the competition. Id. exh. 13, Contracting Officer’s Memorandum for Record, at 4. Upon learning of the agency’s decision, MBM filed the subject protest challenging the agency’s evaluation of its proposal as unacceptable and arguing that the agency failed to conduct meaningful discussions.<sup>5</sup>

## DISCUSSION

The determination of whether a proposal is in the competitive range is principally a matter within the judgment of the contracting agency. Dismas Charities, Inc., B-284754, May 22, 2000, 2000 CPD ¶ 84 at 3. We will review that judgment--and the evaluation judgments on which it was based--only to ensure that it was reasonable and consistent with the solicitation and applicable procurement laws and regulations. Grove Resource Solutions, Inc., B-296228, B-296228.2, July 1, 2005,

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<sup>4</sup> The contracting officer’s March 1 letter reiterated that “a rating of no less than “Acceptable” must be received for all sub-factors and components” in order to be considered for award. RFP amend. 8, at 128-129; AR exh. 7, Competitive Range Determination-Discussions, at 1 (March 1, 2012).

<sup>5</sup> The protester also complains that the agency utilized unstated evaluation factors by using adjectival assessments of “deficiency” and “weakness” to determine whether proposals were acceptable or unacceptable under each technical factor and subfactor. This allegation is simply without merit. The adjectival evaluation tools about which the protester complains were merely used to guide the agency’s evaluation of technical acceptability--they did not introduce new or unstated evaluation criteria.

2005 CPD ¶ 133 at 4. A protester's mere disagreement with the agency's evaluation does not show that it lacked a reasonable basis.

MBM first takes issue with the agency's attribution of a deficiency under the subfactor pertaining to the safety and health plan requirements of PWS 1.17. According to the protester, its initial and revised proposals together demonstrate the firm's compliance with, and understanding of, the solicited safety and health plan requirements. In this regard, MBM argues that the SSEB's assessment of a continued deficiency was unreasonably "based only on an evaluation" of its response to the discussion item and failed to consider all the information contained in its proposal. Protester's Comments at 8. Moreover, the protester alleges that the solicitation did not require the level of detail expected by the agency and that the agency failed to conduct meaningful discussions regarding this deficiency. Id. at 11.

Our review leads us to conclude that the agency's evaluation in this regard was reasonable and consistent with the terms of the solicitation. As noted above, the RFP required offerors to submit clear and concise proposals with sufficient detail to "provide a convincing rationale to address how the offeror intends to meet" the agency's requirements. Moreover, offerors were to provide specific narrative details or descriptions of actual methods, processes, and procedures that they would use to meet the agency's requirements.

With respect to PWS 1.17, the RFP established various specific safety and health related requirements. For example, the RFP established that the contractor shall comply with the WBAMC Hazard Communication Program, the WBAMC Regulation 385-10 Safety, and WBAMC Pamphlet 385-1 Fire Prevention and Protection Plan. RFP amend. 8, at 74. Although MBM's proposal represented that it would comply with these requirements, the record reflects that the protester did not provide any further detail regarding how it intended to comply with these requirements. Consequently, given the lack of narrative details or description explaining how it would comply with the specific safety requirements established by PWS 1.17, the agency reasonably concluded that MBM failed to provide a convincing rationale of how it would meet the agency's requirements.

Similarly, the agency reasonably determined that MBM failed to adequately address how it would meet the requirements associated with PWS 1.18, EOP. In this regard PWS 1.18, EOP, provides that the contractor's key personnel shall be thoroughly familiar with the WBAMC EOP, which was identified in the solicitation as Annex J, and provides detailed instructions pertaining to the provision of continuous medical logistics support during emergency events. Additionally, PWS 1.18 requires that all contractor employees shall be trained to fully understand their responsibilities relative to each emergency plan, that healthcare housekeeping services are considered "mission-essential functions" and that the contractor shall be required to perform to the extent allowed during all emergency situations. Notwithstanding these detailed requirements, the record reflects that MBM's proposal merely

provided that it would conduct training with respect to “The Company’s Safety and Health Plan and Facility Emergency Operation Plan (EOP),” that the plans “will be available for Employees to review,” and that project management would be familiar with all aspects of the EOP, would keep employees up to date on new requirements, and reinforce existing ones. AR exh. 4, MBM’s Proposal, at 15. The agency found MBM’s response inadequate because it provided no details regarding the implementation of the PWS requirement and thus did not suggest that MBM understood, or was capable of meeting the agency’s requirements. While the protester may ultimately disagree with the agency’s assessments in this regard, we have no basis to conclude that they were unreasonable.<sup>6</sup>

To the extent MBM argues that the agency failed to conduct meaningful discussions with it by failing to identify each element of its proposed technical approach that the agency considered to be insufficiently detailed, the requirement for meaningful discussions is satisfied when an agency leads an offeror into the areas of its proposal requiring amplification or revision; all-encompassing discussions are not required, nor is the agency obligated to “spoon-feed” an offeror as to each and every item that could be revised to improve its proposal. ITT Indus. Space Sys., LLC, B-309964, B-309964.2, Nov. 9, 2007, 2007 CPD ¶ 217 at 12. Accordingly, we find this argument to be without merit where the record clearly establishes that the agency raised all of its concerns, to include all deficiencies and weaknesses, in great detail through the numerous ENs and oral discussions.

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<sup>6</sup> As a related matter, the agency properly concluded that MBM failed to provide an adequate plan addressing the continuation of essential contractor services during periods of crisis, as required by the RFP. RFP at 127. The agency alerted the protester to the fact that it did not include such a plan in its initial proposal, and while the protester’s revised proposal included a “Continuity of Essential Services Plan,” the record reflects that the plan was deficient because it did not meet the minimum requirements set forth in the solicitation. Moreover, the protester is misplaced in its efforts to conveniently recast this plan as its “Emergency Preparedness Plan” to support its assertion that the agency failed to consider relevant information contained in this plan in its evaluation of MBM’s proposal with respect to PWS 1.18. Our review leads us to conclude that the plan at issue does not address the detailed requirements of WBAMC EOP, Annex J, with which the contractor’s key personnel were to be thoroughly familiar pursuant to PWS 1.18. Thus, the protester’s references to this plan do not demonstrate that the agency failed to account for relevant information when it assessed MBM with a deficiency for failing to meaningfully address PWS 1.18. In addition, accepting MBM’s arguments in this regard would necessarily mean that the protester did not provide any plan to address the continuation of essential contractor services, let alone a deficient plan, as found by the agency.

In sum, based on our review of the entire record and considering all of the arguments raised by the protester challenging its unacceptable rating under the technical acceptability factor and subfactors, including the examples discussed above, we find no basis to question the agency's evaluation of MBM's proposal. MBM's complaints constitute mere disagreement with the agency's evaluation and, as such, do not provide a basis for sustaining the protest. Fedcar Co., Ltd., B-310980 et al., Mar. 25, 2008, 2008 CPD ¶ 70 at 6.

The protest is denied.

Lynn H. Gibson  
General Counsel