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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: LOGMET LLC

File: B-404984

Date: June 22, 2011

Wayne Rankin for the protester.

George W. Griffith, Esq., and David H. Brunjes, Esq., Department of Homeland Security, for the agency.

Charles W. Morrow, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that agency conducted misleading discussions is denied where in conducting discussions the agency specifically highlighted the aspects of the protester's proposal that the agency found inadequate and there is no evidence that the agency misled the protester.

DECISION

Logmet LLC, of Round Rock, Texas, protests the award of a contract to Ramcor Services Group, Inc., of Tucson, Arizona, under request for proposals (RFP) No. HSFLAR-10-R-00006, issued by the Department of Homeland Security (DHS), Federal Law Enforcement Training Center (FLETC), for facilities support services. Logmet contends that the agency provided it with misleading discussions.

We deny the protest.

The RFP, issued on October 1, 2010 as a total small business set aside, sought proposals for facilities support services at the FLETC in Artesia, New Mexico. These services pertained to logistics, janitorial, facilities maintenance and grounds maintenance. The RFP contemplated a fixed-price contract for a base term with four 1-year option periods and one 6-month option period. Award was to be made on a best-value basis considering six evaluation factors: (Factor 1) method of operation, (Factor 2) quality control plan, (Factor 3) management and administration, (Factor 4) management personnel qualifications, (Factor 5) past performance, and

(Factor 6) price/cost. The non-price factors were of equal weight, and their combined weight was significantly more important than price. RFP § M.

Eleven offerors, including Logmet and Ramcor, submitted proposals in response to the RFP by the November 1 closing date. The proposals were evaluated utilizing an adjectival rating scale.¹ Based on the initial evaluation, the source selection authority (SSA) established a competitive range of the most highly rated proposals, including those of Logmet and Ramcor, whose initial ratings were as follows:

	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5	Factor 6
Ramcor	S	S	S	S	S	\$23,480,367
Logmet	M	M	M	M	M	\$24,982,576

AR at 4.

By letters dated December 17, DHS conducted discussions with each offeror in the competitive range, which detailed the specific areas of concern that the agency had with each proposal. Specifically, the agency was concerned that Logmet proposed only one heating ventilation and air conditioning (HVAC) technician to cover all the facilities; that Logmet's technical approach to cross-utilize seasonal grounds staff may not be sufficient to meet the work load; that the project manager and alternate project manager lacked experience; and that Logmet did not have a past performance record on contracts of similar scope and complexity. AR, Tab JA, Discussion Letter at 1.

On December 29, DHS received final proposal revisions in response to discussions. The final evaluation results of these two offerors were as follows:

	Factor 1	Factor 2	Factor 3	Factor 4	Factor 5	Factor 6
Ramcor	E	S	E	E	S	\$23,480,439
Logmet	S	S	S	S	S	\$24,906,061

AR at 5. Ramcor's proposal was the second highest-ranked proposal of the competitive range proposals and offered the lowest price, and Logmet's proposal was the third highest-ranked proposal with the second lowest price.

On March 31, 2011, the SSA selected Ramcor for award finding that its proposal represented the best value. In so doing, the SSA concurred with the final evaluation results. The SSA found that there was a negligible technical difference between the

¹ The ratings applicable to the technical factors were excellent (E), satisfactory (S), marginal (M), and unsatisfactory (U). The ratings applicable to the past performance factor were excellent, satisfactory, neutral, marginal, and unsatisfactory. See Agency Report (AR), Tab P, Source Selection Plan, at 11-14.

highest ranked proposal and Ramcor's proposal, and that this difference was not worth the additional price premium.² AR, Tab O, Source Selection Decision at 4. This protest followed.

Logmet alleges that DHS conducted misleading discussions because it was led to believe that it should increase staffing, when the agency awarded the contract to Ramcor with less staffing than Logmet. The Federal Acquisition Regulation (FAR) requires agencies conducting discussions to inform offerors of deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not had the opportunity to respond. FAR § 15.306(d)(3). Although discussions must address deficiencies and significant weaknesses identified in proposals, the precise content of discussions is largely a matter of the contracting officer's judgment. Honeywell Tech. Solutions, Inc., B-400771, B-400771.2, Jan. 27, 2009, 2009 CPD ¶ 49 at 10. However, an agency does not satisfy its obligation to conduct meaningful discussions, if an offeror has been misled. See Lockheed Martin Corp., B-293679 et al., May 27, 2004, 2004 CPD ¶ 115 at 7.

Here, Logmet's assertion that the agency conducted misleading discussions has no merit. As noted above, the agency had several areas of concern with Logmet's proposal, which were specifically brought to Logmet's attention during discussions. In response, Logmet adequately addressed the agency's concerns, which resulted in its proposal being rated more favorably by the agency. While the protester alleges that the discussions were misleading because the agency implied that Logmet needed to increase its staffing and contends that Ramcor offered less staffing than Logmet, the record does not support these contentions. To the contrary, the discussion letter only requested Logmet to explain and clarify its staffing levels regarding one HVAC technician and its technical approach to cross utilize seasonal grounds staff. See AR, Tab JA, Discussion Letter at 1. In response, Logmet did not increase its staffing level, but instead shifted and clarified the responsibilities of its proposed staff in a manner which the agency found acceptable. See AR, Tab EA5, Logmet Final Proposal Revisions at 12-19. Moreover, the record reflects that Ramcor's proposal was based on staffing levels that were higher than Logmet's. Thus, we find that the agency conducted meaningful discussions with Logmet and deny the protest.³

Lynn H. Gibson
General Counsel

² Because Logmet's proposal was lower rated and higher priced than Ramcor's, no cost/technical tradeoff between Logmet's and Ramcor's proposals was necessary.

³ While Logmet generally questions the evaluation of proposals, it has provided no basis to find the agency's evaluation and source selection unreasonable.