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# Decision

**Matter of:** FedWriters, Inc.

**File:** B-421546.3; B-421546.5

**Date:** June 30, 2023

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## DIGEST

Protest challenging evaluation of protester’s proposal under the solicitation’s most important evaluation factor, technical experience, is denied where the agency reasonably assessed a rating of “low confidence” to protester’s proposal.

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## DECISION

FedWriters, Inc., of Fairfax, Virginia, protests the evaluation of its proposal by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), pursuant to request for proposals (RFP) No. 1305M4-22-RNEEA-0001, to provide “a wide assortment of professional, technical and scientific services.” See Combined Contracting Officer’s Statement and Memorandum of Law (COS/MOL) at 1.<sup>1</sup>

FedWriters challenges the agency’s assessment of a “low confidence” rating under the most important evaluation factor, relevant technical experience.

We deny the protest.

## BACKGROUND

On December 2, 2021, the agency issued the solicitation as a total small business set-aside. The solicitation sought proposals to provide a broad range of professional,

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<sup>1</sup> Page number citations in this decision refer to the Adobe PDF page numbers in the documents submitted.

technical and scientific services in the “Satellite Domain,”<sup>2</sup> and stated that the agency intended to award between 10 and 25 IDIQ contracts under which task orders will subsequently be issued.<sup>3</sup> RFP at 112.<sup>4</sup> The services identified in the solicitation’s performance work statement (PWS) were divided into various “service areas,”<sup>5</sup> and each service area identified specific “elements” that may be required under subsequent task orders.<sup>6</sup> The solicitation further provided that source selection decisions would be made on the basis of “Highest Technically Rated Offerors with a Fair and Reasonable Price,” and provided that, in identifying the highest technically rated proposals, the agency would consider the following evaluation factors, listed in descending order of importance: relevant technical experience,<sup>7</sup> management approach, and past performance. *Id.*

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<sup>2</sup> The agency states that this procurement is “a follow-on to the Professional, Scientific, and Technical Services (‘ProTech’) Program, which was approved on May 20, 2015,” and explains that the ProTech program is comprised of multiple-award indefinite-delivery indefinite-quantity (IDIQ) contracts in four “domains”: satellite, fisheries, oceans, and weather. COS/MOL at 3. The IDIQ contracts to be awarded under this procurement (generally referred to as “ProTech Satellite”) are “intended to satisfy the need for professional, technical, and scientific services to support the full range of related requirements for observing system activities, including satellite missions, which NOAA manages or in which NOAA participates, and managing the space and Earth environmental data that results from those missions.” *Id.* at 3-4.

<sup>3</sup> Noting that the agency did not expect that all of the required services could be acquired from a single contractor, the solicitation stated: “NOAA will award contracts to a set of service providers who collectively can perform all the required . . . services, and can provide NOAA with competition for coverage of services at the task order level.” Agency Report (AR), Tab 12.a, RFP amend. 2 at 14, 17.

<sup>4</sup> Unless otherwise indicated, all references to the RFP in this decision are to AR, Tab 12.a.

<sup>5</sup> The service areas were divided between “professional” service areas and “technical and scientific” service areas. RFP at 13-27.

<sup>6</sup> Specifically, the solicitation contained over 20 “service areas” comprised of various “elements” (the number of elements in each of these service areas ranged from 2 to 18) for which offerors were required to demonstrate their technical experience. See AR, Tab 4b, RFP attach. J-4, Technical Experience Matrix, Tab 1. The solicitation stated that the specific performance requirements were defined by: (1) the specifications listed in each element; (2) the specification of each element’s service area; and (3) the definitions contained in section C.4 of the solicitation, titled “General Definitions.” RFP at 14, 17.

<sup>7</sup> The solicitation provided that the agency would assign ratings of high confidence, some confidence, or low confidence under the technical experience evaluation factor. Of relevance to this protest, the solicitation defined a low confidence rating as, “[t]he

The solicitation also provided that the procurement would be conducted in two phases, stating that phase one would consist of each offeror's "self-assessment" of its recent relevant experience. *Id.* at 101. More specifically, the solicitation required each offeror to submit a matrix (RFP attachment J-4) in which the offeror characterized its experience in performing each of the service areas' 190 elements as "extensive," "some," or "no" relevant experience. *Id.* at 114-15. The solicitation warned offerors that, as discussed below, experience claimed in phase one would have to be substantiated during phase two and, accordingly, advised offerors that they "should review and consider" the phase two requirements before submitting their phase one self-assessment proposals. *Id.* at 101. More specifically, the solicitation advised that: "[o]fferors should only claim experience for those elements where they can clearly substantiate (in Phase 2) the level of the experience they are claiming." AR, Tab 4b, RFP attach. J-4, Technical Experience Matrix, Tab 1. The solicitation provided that, following the phase one submissions, the agency would make advisory recommendations to offerors regarding whether they should proceed to phase two.

In phase two, offerors were required to submit additional information substantiating the experience claimed in phase one.<sup>8</sup> With regard to the technical experience evaluation factor, each offeror was required to identify up to 20 prior contracts under which it had gained the experience the offeror was claiming;<sup>9</sup> map the prior contracts to the relevant performance elements;<sup>10</sup> and submit a written narrative<sup>11</sup> in which the offeror "shall describe its depth of experience."<sup>12</sup> RFP at 103. Of significance here, the solicitation specifically stated:

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Government has low confidence that the Offeror understands the requirement, has sufficient relevant technical experience, and will be successful in performing the contract even with Government intervention," and provided that assessment of a low confidence rating under this factor would render the proposal ineligible for award. RFP at 112-13.

<sup>8</sup> In phase two, offerors were also required to provide submissions relevant to the other evaluation factors; those submissions are not relevant to resolution of this protest and are not further discussed.

<sup>9</sup> The solicitation required that the prior contracts be identified by contract number and customer, and include contact information for the prior contracting officer and the contracting officer's representative. Tab 4c, RFP attach. J-5, Technical Experience Form.

<sup>10</sup> See AR, Tab 4b, RFP attach. J-4, Phase Two Tab of Technical Experience Matrix.

<sup>11</sup> The narrative was limited to 40 pages. RFP at 95.

<sup>12</sup> In this context, the solicitation defined "depth" of experience as the extent to which the offeror's description addressed "the entire mission lifecycle of an individual service element"; defined "lifecycle" as including "analysis," "development," and "execution"; and

It is the Offeror's responsibility to demonstrate [its] experience in [its] proposal. For example, the Offeror must demonstrate that the relevant experience examples provided in Phase Two align with the levels of experience provided in Phase One. The Offeror is required to ensure all proposal information submitted is verifiable. **If the Source Selection Evaluation Board detects a high degree of contradictory or unsubstantiated information submitted in an Offeror's proposal, the Government will negatively evaluate the proposal, and remove the Offeror from being considered for award.**<sup>[13]</sup>

*Id.* at 117 (emphasis added).

The solicitation provided that, following submission of the phase two technical experience proposals, the agency would evaluate each offeror's claimed experience, making judgments and assessments regarding the agency's "degree of confidence in an Offeror's understanding of and capability to perform work that is relevant to the elements of the PWS." *Id.* With regard to these assessments, the solicitation identified multiple aspects of an offeror's experience that would be considered.<sup>14</sup> *Id.* Under the heading "Basis for Award," section M of the solicitation stated that an offeror "need not provide capability for all of the listed services set forth in the PWS to be considered for award," elaborating that, in performing its evaluation and making its source selection decisions, the agency would consider whether a given offeror "demonstrate[d] a high level of technical merit or proficiency for a subset of the PWS services."<sup>15</sup> *Id.* at 113.

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noted that "[e]xperience across the entire mission lifecycle of a service element will be evaluated more favorably than limited experience within the mission lifecycle." RFP at 17-18, 103, 117.

<sup>13</sup> Consistent with these provisions, the solicitation also stated that "Offerors shall provide sufficient information for the Government to determine its level of confidence in the ability of the Offeror to perform the requirements of the RFP based on an assessment of relevant experience," adding that "statements paraphrasing the requirements" would be considered "inadequate and unsatisfactory." *Id.* at 94.

<sup>14</sup> In addition to warning that claims of experience that were not substantiated would lead to a "negative[] evaluat[ion]" and exclusion of the proposal from further consideration, the solicitation stated that an offeror's claimed experience must "meet[] an element of the PWS"; "align[] with" at least one of seven "mission focus areas" identified in the solicitation; be "similar in size to current ProTech Satellite services"; and have been performed within the last five years. *Id.* at 101.

<sup>15</sup> The agency considered each of the various service areas as "a subset of the PWS services." See AR, Tab 25.a, Source Selection Decision Document (SSDD) at 2.

On January 6, 2022, phase one proposals were submitted by 66 offerors, including FedWriters. FedWriters claimed various levels of experience for 126 of the 190 performance elements. See Protest at 6. Based on its assertions of prior experience, FedWriters was among the 40 offerors subsequently invited to submit phase two proposals. *Id.* On February 28, phase two proposals were submitted by 40 offerors, including FedWriters.

Thereafter, the agency evaluated the phase two proposals.<sup>16</sup> In evaluating FedWriters's proposal under the technical experience factor, the agency found that the proposal "repeatedly failed to demonstrate the requirements of the evaluation criteria, both by failing to address the requirements of the PWS's service areas and elements, and by providing vague descriptions of its understanding and experience." COS/MOL at 2-3; see AR, Tab 22, Consensus Evaluation Report at 13-19. Consistent with the solicitation's warning that phase two proposals that failed to adequately substantiate the experience claimed in phase one would be "negatively evaluate[d]" and "remove[d] . . . from being considered for award," see RFP at 117, the agency assessed a rating of low confidence to FedWriters's proposal under the technical experience evaluation factor, rendering the proposal ineligible for award.

The evaluators assigned a rating of low confidence to FedWriters's proposal under the technical experience factor, and the agency's contemporaneous evaluation documentation included the following summary:

Of the 126 elements the offeror proposed, 64 elements (51%) supported a Low Confidence rating, 44 elements (35%) supported a Some Confidence rating, and 18 elements (14%) supported a High Confidence rating. The Service Areas for System Architecture; Algorithm; Data (Data System/Databases/Datasets); Flight Segment; Ground Segment-Data; Instruments and Sensors; Models; Products; Requirements; and Simulators and Field Experiments were rated Low Confidence in more than half of the elements proposed. The Service Areas for Budget and Financial Management; Schedule Management; Business Services; and Communications Services were rated High Confidence in more than half of their proposed elements. Because of the high number of service areas with Low Confidence ratings, and the significant number of the proposed elements with Low Confidence ratings, the Government has low confidence [that FedWriters] understands the requirements, has relevant technical experience, and will be successful in performing the contract.

AR, Tab 22, Consensus Evaluation Report at 1.

Overall, the proposals of FedWriters and the offerors selected for award were rated as follows:

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<sup>16</sup> The solicitation advised offerors that the agency intended to make contract awards without conducting discussions. RFP at 113. Consistent with that provision, the agency did not conduct discussions with any offeror.

	Technical Experience	Management Approach	Past Performance	Cost/Price
Centuria	High Confidence	Some Confidence	Exceptional	Reasonable
Columbus Techs. and Services, Inc.	Some Confidence	High Confidence	Exceptional	Reasonable
Data Networks, Inc.	High Confidence	Some Confidence	Very Good	Reasonable
Earth Resources Technology, Inc.	High Confidence	Some Confidence	Very Good	Reasonable
ENSCO Inc.	High Confidence	Some Confidence	Exceptional	Reasonable
Global Science & Technology, Inc.	High Confidence	Some Confidence	Very Good	Reasonable
I.M. Systems Group, Inc.	High Confidence	High Confidence	Very Good	Reasonable
IBSS Corporation	High Confidence	Some Confidence	Very Good	Reasonable
INNOVIM, LLC	High Confidence	Some Confidence	Exceptional	Reasonable
Integrated Systems Solutions, Inc.	High Confidence	Some Confidence	Very Good	Reasonable
Relative Dynamics, Inc.	Some Confidence	Some Confidence	Very Good	Reasonable
RIVA Solutions, Inc.	High Confidence	Some Confidence	Very Good	Reasonable
Riverside Technology, Inc.	High Confidence	Some Confidence	Very Good	Reasonable
Science and Technology Corp.	High Confidence	Some Confidence	Exceptional	Reasonable
Spatial Front	High Confidence	Some Confidence	Very Good	Reasonable
<b>FedWriters</b>	<b>Low Confidence</b>	<b>Some Confidence</b>	<b>Very Good</b>	<b>Reasonable</b>

AR, Tab 25.a, SSDD at 6, 8-9.

On March 1, the agency awarded IDIQ contracts to the 15 contractors listed above and notified the unsuccessful offerors, including FedWriters, that their proposals had not been selected for award. This protest followed.

## DISCUSSION

FedWriters challenges the agency's assessment of a "low confidence" rating under the technical experience evaluation factor.<sup>17</sup> In challenging the agency's assessment, FedWriters does not dispute the agency's determination that FedWriters's phase two proposal failed to substantiate the experience claimed in its phase one proposal for more than 40 performance elements. Specifically, the protest states:

FedWriters is protesting the rating of Low Confidence for 23 elements . . . and proffers that the Agency should have evaluated only 41 [of 64] elements (33%) as supporting a Low Confidence rating.<sup>[18]</sup>

Protest at 3.

In this regard, FedWriters complains that the agency's evaluation: was "arbitrary," "hypercritical and unreasonable"; "disregarded responsive information"; "failed to follow the stated evaluation criteria"; and was inadequately documented. *Id.* at 6-7; Comments and Supp. Protest at 1.

In response, the agency first notes that the solicitation placed offerors on notice that, in evaluating technical experience, the agency would consider multiple aspects of offerors' proposals and make qualitative assessments regarding the offerors' relative qualifications and experience, stating that the agency would "assess its degree of confidence in an [o]fferor's understanding of and capability to perform [the] work."<sup>19</sup> COS/MOL at 9-10, 14-17. The agency further notes that the solicitation notified offerors that they were responsible for demonstrating their claimed experience by adequately describing their prior activities; warned that "statements paraphrasing the requirements" would be considered "inadequate and unsatisfactory"; and warned offerors that failure to adequately substantiate their claimed experience would lead to rejection of their

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<sup>17</sup> In its various submissions, FedWriters presents arguments that are variations of, or additions to, those specifically discussed below, including assertions that the agency was required to consider information presented to substantiate experience with elements other than the particular element being evaluated, and that FedWriters should have received award because it was rated "high confidence" for a service area for which there was limited coverage by other contractors. We have considered all of FedWriters's allegations and find no basis to sustain its protest.

<sup>18</sup> Following submission of the agency report (in which, as discussed below, the agency provided a comprehensive description of its evaluation for each of the 23 challenged elements), FedWriters's comments addressed the agency's evaluation for only five of those elements, stating: "We could continue to highlight each and every element that Protester is challenging, but the arguments would be more of the same." Comments and Supp. Protest at 7.

<sup>19</sup> Among other things, the solicitation specifically contemplated the agency's assessment regarding the "depth" of an offeror's experience. RFP at 103.

proposals. See RFP at 94, 117. Finally, in responding to FedWriters's assertion that the agency's evaluation was flawed with regard to 23 performance elements, the agency provides a detailed discussion of its evaluation for each of the challenged elements. See COS/MOL at 23-73.

In reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals, but examines the record to determine whether the agency's judgments were reasonable and in accordance with the stated evaluation criteria and applicable procurement laws and regulations. *Trandes Corp.*, B-411742 *et al.*, Oct. 13, 2015, 2015 CPD ¶ 317 at 6. An offeror's disagreement with the agency's judgments, without more, is insufficient to establish that the agency acted unreasonably. *STG, Inc.*, B-405101.3 *et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7. Additionally, an offeror has the burden of submitting a clearly written proposal, and where a proposal fails to clearly convey required information, the offeror runs the risk of an adverse agency evaluation. *G.A. Braun, Inc.*, B-413735, Dec. 21, 2016, 2016 CPD ¶ 374 at 5.

Further, in reviewing an agency's evaluation, we do not limit our consideration to contemporaneously documented evidence, but instead consider all the information provided, including the parties' arguments and explanations concerning the contemporaneous record. *Remington Arms Co., Inc.*, B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 10. Post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review of the reasonableness of evaluation decisions-- provided those explanations are credible and consistent with the contemporaneous record.<sup>20</sup> *OGSystems, LLC*, B-417026.5, B-417026.6, July 16, 2019, 2019 CPD ¶ 273 at 4-5; *NWT, Inc.; PharmChem Labs., Inc.*, B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16.

Here, based on our review of the record, we find no basis to question the agency's evaluation of FedWriters's phase two proposal under the technical experience factor, nor its conclusion that FedWriters's phase two proposal failed to adequately substantiate the experience claimed in its phase one proposal for 64 performance elements.

For example, FedWriters's phase one proposal asserted that it had experience performing the requirements contained in PWS section C.3.2.4, Systems Architecture, Enterprise or System Ground Segment Products. The solicitation defined systems architecture as "the formal representation and description of a system designed, built, and operated to satisfy the product or service requirement of an enterprise [and] . . . specifies its components, their interfaces . . . interconnectivity, and functional

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<sup>20</sup> In contrast, where an agency offers an explanation of its evaluation during the heat of litigation that is not borne out by the contemporaneous record, we will give little weight to the later explanation. See, e.g., *Al Raha Grp. for Tech. Servs., Inc.; Logistics Mgmt. Int'l, Inc.*, B-411015.2, B-411015.3, Apr. 22, 2015, 2015 CPD ¶ 134 at 10.



performance” and contemplated an offerors’ demonstration of a “ground segment product” that supported systems architecture. RFP at 18.

FedWriter’s proposal identified a single contract as the basis for its purported experience performing this requirement. AR, Tab 15.a, FedWriters’s Technical Experience Matrix. In describing its experience, FedWriters’s phase two proposal stated:

Our team supports Real-time Coastal Observation Network (ReCON) for systems design, electrical design, and software development for existing and new observational technology. For instance, we work with a real-time buoy team (field support) on data acquisition and software systems development projects using Perl, C, Python, and Linux scripting language.

AR, Tab 15, FedWriters’s Phase Two Technical Proposal at 7.

In assigning a low confidence rating for this element, the agency’s contemporaneous evaluation stated that “[FedWriters] assertion of capability is insufficient to demonstrate understanding and experience with Enterprise or System Ground Segment Products.” AR, Tab 22, Consensus Evaluation Report at 13. In responding to FedWriters’s protest, the agency further explains that FedWriters’s assertion that it “supports” the ReCON did not identify the activities that FedWriters, itself, performed; its proposal did not address the solicitation’s requirements with regard to system components, their interfaces, interconnectivity or functional performance; and its proposal did not address how the “buoy team” it “work[ed] with” constituted relevant experience in performing the solicitation requirements for this element. COS/MOL at 23-26.

By way of another example, FedWriters’s phase one proposal asserted that it had experience performing the requirements contained in PWS section C.3.2.12, Algorithms – Advanced/Future/Innovations. The solicitation stated that the agency was seeking demonstration of an offeror’s experience supporting algorithms, which were defined as “systematic procedures for processing input data into a derived data product or for automated reasoning,” and specifically contemplated demonstration of support for “advanced” algorithms or algorithm “innovations.” RFP at 19.

FedWriters’s phase two proposal identified a single contract as the basis for its claimed experience performing this requirement, stating:

We collect, process, and manage mapping and water column data. We also provide input and participate in the design, development and implementation of new methods, tools, equipment, and software related to advancing, maintaining, and improving hydrography and mission capabilities.

FedWriters hydrographers conduct reference system integration and integration of radiance reference into data processing protocol, supporting

ReCON, autonomous underwater vehicles (AUV), and crewed and uncrewed air systems (UAS) to provide continuous observations of chemical, biological, and physical environmental parameters.

AR, Tab 15, FedWriters's Phase Two Technical Proposal at 7

In assigning a rating of low confidence for this element, the agency's contemporaneous evaluation stated that "[FedWriters's] assertion of capability is insufficient to demonstrate understanding and experience with Algorithms-Advanced/Future/Innovations." AR, Tab 22, Consensus Evaluation Report at 13. In responding to FedWriters's protest, the agency notes that, while the proposal asserted that FedWriters's proposal "provide[d] input and participate[d] in the design, development and implementation of new methods, tools, equipment, and software," it failed to identify any particular activity that FedWriters had actually performed; failed to demonstrate that any of the "methods, tools, equipment, and software" were algorithms (noting that AUVs and UASs are equipment, not algorithms); and did not address in any way its purported experience with advanced algorithms or algorithm innovations. COS/MOL at 27-30.

Overall, based on our review of the agency's contemporaneous evaluation documentation; its comprehensive response to the protest (which provides further explanation and detail regarding the agency's basis for evaluating each of the elements challenged by FedWriters);<sup>21</sup> and FedWriters's phase two proposal, we find nothing unreasonable in the agency's assessment of low confidence ratings for each of the challenged elements.<sup>22</sup> As noted above, the solicitation clearly directed offerors to provide sufficient information for the agency to make reasonable assessments regarding the extent of the offeror's understanding of the performance requirements; warned that "statements paraphrasing the requirements" would be considered "inadequate and unsatisfactory"; and further warned that failure to adequately substantiate their claimed experience would lead to rejection of their proposals.

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<sup>21</sup> As noted above, our Office will consider an agency's post-protest explanations that fill in previously unrecorded details, provided those explanations are credible and consistent with the contemporaneous record. *OGSystems, LLC, supra*. Here, we view the agency's post-protest explanations as simply providing additional details with regard to its contemporaneous evaluation conclusions; further, we find the agency's explanations regarding the inadequacy of FedWriters's description of its experience to be consistent with FedWriters's proposal and, therefore, credible and consistent with the contemporaneous record. *Id.*

<sup>22</sup> As noted above, although the agency found that FedWriters's proposal failed to substantiate its claimed experience for 64 performance elements, FedWriters does not in any way dispute the agency's assessments for 41 of those elements and, following the agency's comprehensive response to FedWriters's protest allegations, FedWriters failed to meaningfully respond to the agency's explanations regarding 18 of the 23 challenged elements.

Here, as demonstrated by the examples discussed above, we find nothing unreasonable in the agency's determination that FedWriters's phase two proposal failed to meet those requirements. Accordingly, FedWriters's assertions that the agency's evaluation was unreasonable and inadequately documented are without merit.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel