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Decision

Matter of: CSC Government Solutions LLC

File: B-413064; B-413064.2

Date: August 10, 2016

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Kevin J. Maynard, Esq., Rand L. Allen, Esq., Tara L. Ward, Esq., Gary S. Ward, Esq., and George E. Petel, Esq., Wiley Rein LLP, for HP Enterprise Services, LLC, the intervenor.

Col. Matthew J. Mulbarger, Michael G. McCormack, Esq., and Matthew J. Ruane, Esq., Department of the Air Force, for the agency. Heather Weiner, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency conducted misleading and unequal discussions is denied where the record reflects that the protester was not misled during discussions, but chose to increase its proposed costs based on its own business judgement.

DECISION

CSC Government Solutions LLC, of Falls Church, Virginia, protests the award of a contract to HP Enterprise Services, LLP (HPES), of Herndon, Virginia, under request for proposals (RFP) No. FA4600-14-R-0017, issued by the Department of the Air Force for information technology (IT) support services for the U.S. Strategic Command. CSC challenges the Air Force's evaluation of its and HPES' proposals and past performance, and argues that the agency failed to conduct meaningful discussions.

We deny the protest.

BACKGROUND

The Air Force issued the RFP on October 1, 2014, for mission critical, integrated, operational support for the Strategic Command's IT infrastructure. RFP at 71. The RFP anticipated the award of a hybrid fixed-price, cost-plus-incentive-fee, cost-plus-fixed-fee, and cost-reimbursable contract, for a base year and nine 12-month options. Id. at 69.

The solicitation provided for award on a best-value basis, considering three evaluation factors: technical approach/technical risk, past performance, and cost/price. RFP at 238. The technical approach/technical risk factor included five subfactors: technical, management approach, IT systems optional tasks, engineering, and small business participation plan. Id. at 239. Technical acceptability in all subfactors was a prerequisite for award. Id. For technically acceptable proposals, technical risk and past performance were of equal importance. Id. The total evaluated price (TEP) was more important than past performance and technical risk, combined. Id. The solicitation advised, however, that "award will be made to the offer with the lowest TEP without a tradeoff if that offer is rated with Substantial Confidence (based on Past Performance evaluation pursuant to M3.2) and Low Technical Risk (per M3.1) in all subfactors, as this combination will present the optimal 'best value' outcome for this solicitation." Id. at 238.

As relevant here, under the engineering subfactor, an offeror was required to describe its engineering approach for the work described in the performance work statement (PWS), to include the offeror's internal processes for engineering requirements and project management; technical solution development; testing; and implementation/integration. RFP at 226, 240-41. Offerors were to propose engineering hours and costs for the engineering work in CLIN X101 (engineering), which directly correlated to the RFP's engineering technical subfactor and the engineering work in PWS 3.3 (engineering). Agency Report (AR), Tab 29, Proposal Analysis Report (PAR), at 153.

With regard to an offeror's proposed CLIN X101 (engineering) labor hours and costs for the engineering tasks, the solicitation advised that the agency would evaluate for cost realism and cost reasonableness. RFP at 245. It further specified:

"Cost realism" means that the costs in an offeror's proposal—(1) are realistic for the work to be performed, (2) reflect a clear understanding of the requirements; and (3) are consistent with the various elements of the offeror's technical proposal.

Id.

The Air Force received timely proposals from five offerors, including CSC and HPES. Combined Contracting Officer Statement & Memorandum of Law (COS/MOL) at 42. CSC is the incumbent contractor for the requirement. Id. at 100. Following an evaluation of initial proposals, the Air Force established a competitive range of four offerors, including CSC and HPES. Id. The agency provided the offerors in the competitive range with evaluation notices (ENs), which described the weaknesses, significant weaknesses, deficiencies, and uncertainties identified by the agency in their proposals.

As relevant here, CSC received an EN regarding the staffing and hours that CSC proposed to perform the engineering tasks in PWS 3.3 for CLIN X101. AR, Tab 10a, CSC Evaluation Notice, Round 1, at 28. Although historical data indicated that an average of 121,000 engineering hours per year was required for the engineering tasks, CSC's initial proposal proposed only [DELETED] engineering hours to support CLIN X101. Id. Accordingly, the agency advised CSC that its proposed staffing had been evaluated as "unrealistically low." Id.

As discussed in detail below, after several rounds of discussions, the agency found that CSC's revised interim proposal still did not provide adequate justification to support CSC's proposed approach to perform the CLIN X101 work in only [DELETED] hours. Id. at 29-30. At that point, CSC responded that it "agree[d] that [its] [DELETED] efficiency implementation method was aggressive for [the agency's] current environment," and proposed a new approach of slightly increased hours, which was supported with claimed efficiencies. AR Tab 10c, CSC EN, Round 3, at 2. Based on the information provided by the offerors after this round of discussions, the agency prepared an interim evaluation report. COS/MOL at 44; AR, Tab 26, Pre-Final Evaluation Briefing.

In evaluating CSC's revised proposed staffing and efficiencies for the engineering tasks for CLIN X101, the agency accepted some of CSC's claimed efficiencies, and rejected others. AR Tab 10c, CSC EN, Round 3, at 2-4. Because the agency found that CSC's proposed engineering hours were still unrealistically low, the agency made a most probable cost (MPC) adjustment to CSC's revised interim proposal for CLIN X101 by removing the proposed labor hour reductions for efficiencies that the agency found were not fully supported by CSC's proposal. The interim ratings were then released to the offerors, along with a request for final proposal revisions (FPRs).

The agency received offerors' FPRs by December 22. The final evaluation ratings and costs of CSC's and HPES' proposals were as follows:

	CSC	HPES	OFFEROR C
Technical	Acceptable/ Low Risk	Acceptable/ Low Risk	Acceptable/ Low Risk
Past Performance	Substantial Confidence	Substantial Confidence	Substantial Confidence
Price/Cost	\$448.8 million	\$443.0 million	\$443.9 million
Probable Cost	\$448.8 million	\$443.0 million	\$444.3 million

AR, Tab 30, Source Selection Decision Document (SSDD), at 4; Tab 28, Source Selection Decision Briefing, at 215.

The source selection authority (SSA) noted that “[a]ll offerors were rated technically acceptable/low risk and with substantial confidence ratings for past performance.” AR, Tab 30, SSDD, at 4. The SSA explained that, in accordance with the RFP, which provided that cost/price is more important than technical and past performance when combined, “award will be made to the offer with the lowest Total Evaluated Price (TEP) without a trade-off to the offer rated with substantial confidence and low technical risk.” *Id.* The SSA concluded that HPES’ proposal provided the best value because it “presented an Acceptable technical approach,” with “Low Technical Risk in all subfactors,” is “rated with substantial confidence [in past performance],” and offers “the lowest TEP.” *Id.* at 6. Accordingly, the SSA selected HPES, the lowest-priced offeror, as the awardee. After receiving notice of the award, CSC requested and received a debriefing. This protest followed.

DISCUSSION

CSC argues that the Air Force conducted misleading and unequal discussions with CSC by causing it to increase its cost/price. The protester also challenges the agency’s evaluation of HPES’ technical proposal and past performance, and contends that the agency failed to conduct a proper cost realism analysis of CSC’s and HPES’ proposals for CLIN X101 (engineering). Based on these alleged flaws, CSC contends that the Air Force’s award decision was unreasonable. For the reasons discussed below, we conclude that the Air Force conducted appropriate discussions with CSC, and that the agency’s evaluation of CSC was reasonable. Since we find that the Air Force’s evaluation was reasonable in this regard, CSC is not an interested party to challenge the evaluation of HPES’ proposal. Bid Protest Regulations, 4 C.F.R. § 21.0(a); see *First Coast Serv. Options, Inc.*, B-409295.4, B-409295.5, Jan. 8, 2015, 2015 CPD ¶ 33 at 8-9. (a protester is not an interested party to challenge the evaluation of the awardee’s proposal where it would not be in line for award were its protest sustained). With regard to the remaining protest grounds, we have considered all of the protester’s arguments, and find that none provides a basis to sustain the protest.

Misleading Discussions

CSC argues that the Air Force conducted misleading discussions, which caused the protester to raise its initial proposed cost/price to a level that made it uncompetitive for the award. Specifically, the protester contends that it was misled by the agency during discussions based on two alleged errors in the agency's evaluation: (1) the agency unreasonably rejected some of the efficiencies that CSC proposed to justify its reduced staffing level; and (2) the agency improperly told CSC that it should increase its staffing for the engineering tasks under CLIN X101, even though the technical evaluators had determined that CSC's technical approach was acceptable. The protester asserts that "[b]ecause of these errors, [CSC] was misled into believing that it had to drastically increase its CLIN X101 costs to be considered realistic and eligible for contract award." Protester's Supp. Comments at 12. As discussed below, we find reasonable the evaluators' concerns regarding CSC's proposed staffing and cost for CLIN X101, and conclude that the agency's concerns in this regard did not conflict with the agency's determination that CSC's technical approach was acceptable. In addition, we find reasonable the agency's evaluation of CSC's proposed efficiencies. Accordingly, because we find that the agency's concerns regarding CSC's staffing and cost for CLIN X101 were reasonably based, we conclude that the agency's discussions with CSC were meaningful.

When an agency engages in discussions with an offeror, the discussions must be meaningful, that is, sufficiently detailed so as to lead an offeror into the areas of its proposal requiring amplification or revision. Hanford Env'tl. Health Found., B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 8. An agency may not mislead an offeror through the framing of a discussion question into responding in a manner that does not address the agency's actual concerns, or otherwise misinform the offeror concerning a problem with its proposal. Metro Mach. Corp., B-281872 et al., Apr. 22, 1999, 99-1 CPD ¶ 101 at 6; Refinery Assocs. of Texas, Inc., B-410911.2, Mar. 18, 2015, 2015 CPD ¶ 116 at 6; Per Aarsleff A/S, et al., B-410782 et al., Feb. 18, 2015, 2015 CPD ¶ 86 at 15.

As noted above, after completing its initial evaluation, the Air Force conducted discussions with CSC regarding its proposed hours and cost for CLIN X101 (Engineering), which as relevant here, directly correlated to the RFP's engineering technical subfactor and the engineering work in PWS 3.3 (engineering).¹ AR, Tab 29, PAR, at 153. Specifically, the agency noted that the staffing level proposed by CSC for CLIN X101 was "unrealistically low" because the number of FTEs proposed by CSC ([DELETED]) "was significantly below the mean and median

¹ Under the engineering subfactor, an offeror was required to describe its engineering approach for the work described in the PWS, to include the offeror's internal processes for engineering requirements and project management; technical solution development; testing; and implementation/integration. RFP at 226, 240-41.

FTEs of [DELETED] and [DELETED], respectively,” and was “substantially below the number of FTEs in the [independent government cost estimate], 40.” Id. at 152-53. The evaluators also noted that a “review of CSC’s Cost/Price Volume did not find evidence to substantiate the minimal hours proposed.” Id. at 153.

The evaluators further explained that, although “[t]he Technical Team Lead reviewed the labor categories utilized for the CLIN, and found them to be consistent with [CSC’s] proposed technical approach,” the level of effort proposed by CSC in CLIN X101 “does not appear to be sufficient to accomplish the work as identified in the technical proposal.” Id. In this connection, and as relevant here, under the RFP’s management approach subfactor, offerors were required to propose a staffing approach to adequately manage the contract with properly qualified, security cleared and certified personnel.² RFP at 225. The solicitation did not require, however, that the agency evaluate specific staffing levels or hours as part of its technical evaluation, or when evaluating an offeror’s proposed staffing approach. Id. As noted above, the technical evaluators rated CSC’s proposal “acceptable” for all of the technical subfactors. AR, Tab 29, PAR, at 153.

After three rounds of discussions regarding the same concern that CSC’s proposed engineering hours and cost were unrealistically low, CSC advised the agency that it “agree[d] that [CSC’s] [DELETED] efficiency implementation method was aggressive for [the agency’s] current environment.” AR, Tab 10d, CSC EN, Round 3, at 2. Accordingly, to justify its proposed engineering hours, CSC provided the agency with a new staffing methodology, based on a baseline of [DELETED] hours per year,³ which identified variables and efficiencies that CSC believed would either increase or decrease the hours required for the engineering work. AR, Tab 29, PAR, at 154.

The evaluators accepted CSC’s proposed baseline of [DELETED] hours per year. The evaluators also accepted CSC’s proposed reduction and/or increase in hours

² Specifically, the solicitation specified that an offeror’s proposed staffing approach must meet the following requirements: (1) detail the offeror’s methodology for hiring, retaining and replacing employees; (2) provide a skillset matrix that identifies education, certification, and experience for each position; (3) provide recurring training to ensure staff maintains certifications and skillsets; and (4) provide uninterrupted support during labor strikes. RFP at 225.

³ The agency’s historical engineering hours of 121,000 hours was documented in the technical read library. COS/MOL at 56. During discussions, CSC provided its rationale as to why [DELETED] percent of the 121,000 historical hours equated to “other” work, and [DELETED] hours should be the baseline for the engineering work in CLIN X101. AR, Tab 10a, CSC EN, Round 1, at 28. The “other” work referenced by CSC is work likely to be covered under one of the solicitation’s expansion CLINs (X700 or X800), which offerors were not required to price. RFP at 231.

for the factors and efficiencies which the agency found “were realistic and substantiated.” Id. at 154. For those that the agency found “were not realistic and substantiated,” the agency rejected the proposed reduction in hours.”⁴ Id. Based on this analysis and the hours identified in CSC’s EN response, the agency made a most probable cost (MPC) adjustment to CSC’s proposal under CLIN X101.⁵ Id. at 156. The total MPC adjustment increased CSC’s proposed engineering hours by approximately [DELETED] hours over the full 10-year period of performance (inclusive of the base year, 9 option years, and six-month extension). Id.

In its FPR, CSC stated that it “agree[d] with the Government’s assessment and most probable cost adjustment for engineering,” and therefore “adjusted Volume III-Cost/Price accordingly.” AR Tab 12c, CSC FPR, Vol. III: Cost/Price, at 3. Specifically, CSC increased its proposed engineering hours for CLIN X101, and deleted references to those efficiencies/reductions that the agency previously deemed inadequate or not justified. Id. at 23-27. During the evaluation of FPRs, the agency found that the final staffing hours and cost proposed by CSC for CLIN X101 were realistic for CSC’s proposed technical approach for the engineering work.

The protester first argues that discussions were misleading because the agency told CSC that it should increase its staffing for the engineering tasks under CLIN X101 even though the technical evaluators determined that CSC’s technical approach was “acceptable.” In this regard, CSC argues that the agency’s cost realism analysis for CLIN X101 was flawed because it resulted in probable cost adjustments which, the protester asserts, were inconsistent with the agency’s evaluation of CSC’s proposed staffing approach as acceptable.

When an agency evaluates a proposal for the award of a contract that includes cost-reimbursable CLINs of a hybrid contract, as was required here, an offeror’s proposed estimated costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. See Federal Acquisition Regulation (FAR) §§ 15.305(a)(1), 15.404-1(d); Palmetto GBA, LLC, B-298962, B-298962.2, Jan. 16, 2007, 2007 CPD ¶ 25 at 7.

⁴ For example, the evaluators accepted that “there will be an initial efficiency for [DELETED],” but rejected “the notion that this efficiency will feed on itself and continue.” AR, Tab 29, PAR, 164. As another example, the evaluators explained that they rejected “[a]ll claimed efficiencies dealing with [DELETED],” because “[c]urrently [DELETED] is a pilot within [DELETED], and no decision has been made for its use [DELETED].” Id.

⁵ In making the MPC adjustment, the evaluators explained that “[b]ecause the Government takes no exception to any of the other cost elements proposed by CSC for CLIN X101, the only variable that needs [to be] adjusted . . . is the number of hours proposed.” Id.

Consequently, the agency must perform a cost realism analysis to determine the extent to which an offeror's proposed costs are realistic for the work to be performed. FAR § 15.404-1(d)(1). Our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonably based and not arbitrary. Jacobs COGEMA, LLC, B-290125.2, B-290125.3, Dec. 18, 2002, 2003 CPD ¶ 16 at 26.

Based on our review of the record, we find nothing unreasonable or inconsistent regarding the agency's cost realism analysis of CSC's proposal under CLIN X101. The record reflects that the agency's concerns regarding CSC's proposed CLIN X101 staffing and costs were based on the conclusion that they were insufficient for CSC's proposed technical approach. As noted above, during the initial evaluation, the agency explained that, although "the Technical Team Lead reviewed the labor categories utilized for the CLIN, and found them to be consistent with [CSC's] proposed technical approach," the level of effort proposed by CSC in CLIN X101 "does not appear to be sufficient to accomplish the work as identified in the technical proposal." AR, Tab 29, PAR, at 153. In addition, during the second round of discussions, the agency noted that CSC's price-cost model included only [DELETED] engineering positions, but that CSC's technical approach proposed [DELETED] engineering positions. AR Tab 10b, CSC EN, Round 2, at 6-7. The agency found it unclear "how the Offeror will support [the] engineering positions/teams [in CSC's proposed technical approach] with the proposed FTEs" in CLIN X101. Id. at 7. The agency also advised CSC that "[i]t is not clear how the Offeror will execute the requirements of PWS 3.3 with the proposed number of FTEs." Id. at 6. Although the protester argues that the agency's MPC adjustment was improper (and misleading) in light of the agency's technical evaluation of CSC's staffing approach as "acceptable," we note that, for purposes of evaluating technical acceptability, the RFP did not provide for the evaluation of specific staffing levels or hours.⁶ Accordingly, there is nothing to indicate that the agency's evaluation and MPC adjustment were inconsistent with the terms of the RFP.

Instead, the record reflects that, as provided in the solicitation, the agency evaluated CSC's proposed staffing hours based on the information provided by CSC for CLIN X101. Specifically, the evaluators raised a legitimate concern

⁶ Under the management approach subfactor, an offeror was required to propose a staffing approach to adequately manage the contract with properly qualified, security cleared and certified personnel. RFP at 225. Specifically, the solicitation specified that an offeror's proposed staffing approach must meet the following requirements: (1) detail the offeror's methodology for hiring, retaining and replacing employees; (2) provide a skillset matrix that identifies education, certification, and experience for each position; (3) provide recurring training to ensure staff maintains certifications and skillsets; and (4) provide uninterrupted support during labor strikes. Id.

regarding whether the low number of FTEs and engineering hours proposed by CSC for CLIN X101, were sufficient for CSC's proposed technical approach. Due to this concern, and in response to CSC's proposed efficiencies, the agency based its MPC adjustment on the conclusion that the proposed engineering hours were insufficient for CSC's proposed technical approach. As referenced above, the purpose of a cost realism analysis is to determine the extent to which an offeror's proposed costs are realistic for the work to be performed. FAR § 15.404-1(d)(1). That is exactly what the agency did here. On this record, we find nothing unreasonable or inconsistent regarding the concerns raised by the agency during discussions.

Next, CSC argues that the discussions were misleading because they were based on the agency's unreasonable rejection of the efficiencies that CSC proposed as justification for its reduced staffing levels.

As noted above, after the third round of discussions, CSC proposed five efficiencies, which CSC asserted adequately justified the proposed reductions to the the [DELETED] hour per year baseline established by CSC. AR, Tab 29, PAR, at 154. In this regard, CSC provided the agency with a brief explanation for each efficiency, and designated the specific hour reduction per year, for each year of performance, associated with each efficiency. AR, Tab 10d, CSC EN, Round 3, at 2-4.

Based on our review of the record, we find nothing unreasonable regarding the agency's evaluation of CSC's proposed efficiencies. The record reflects that the agency accepted some of the efficiencies proposed by CSC, and rejected others. For example, the evaluators accepted that "there will be an initial efficiency for [DELETED]," but rejected "the notion that this efficiency will feed on itself and continue." AR, Tab 29, PAR, at 160. As another example, the evaluators explained that they rejected "[a]ll claimed efficiencies dealing with [DELETED]," because "[c]urrently [DELETED] is a pilot within [DELETED], and no decision has been made for its use [DELETED]" Id. To the extent CSC argues that the agency should have agreed with more of its efficiencies, the protester's disagreement with the agency's evaluation, without more, is insufficient to render the evaluation unreasonable.⁷ Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶¶ 68 at 7.

⁷ The protester challenges the agency's rejection of CSC's proposed efficiency to "[DELETED]," arguing that the explanation provided by the agency for rejecting the efficiency is contradicted by information in the agency's technical read library that indicates that [DELETED]. Protester's Comments at 15. We find no merit to this argument. As support for this efficiency, CSC's EN response stated that "[DELETED]," and "[DELETED]." AR, Tab 10c, CSC EN, Round 3, at 4. The agency explains that "[DELETED]," COS/MOL at 64, and therefore, the agency's concern regarding this efficiency was that this efficiency would be realized

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In this regard, an offeror's conclusion that it has failed to persuade an agency of the basis for its proposed staffing levels does not prevent the offeror from maintaining and further supporting its position in written submissions as the agency, in fact, requested it to do. First Info. Tech. Servs., Inc., B-405602, Dec. 1, 2011, 2011 CPD ¶ 261 at 10; SIMSHIP Corp., B-253655.2, Dec. 2, 1993, 93-2 CPD ¶ 293 at 5. If CSC believed that its initial proposed resources (FTEs and staffing hours) were reasonable, then the protester had the opportunity to explain its position to the agency. Rather than continuing to retain its resource levels and providing adequate justification, as invited by the agency, CSC chose to raise its levels in its FPR. In sum, CSC's decision to raise its resource levels constituted an exercise of its business judgment, which does not establish that the Air Force conducted misleading discussions. See Enterprise Info. Sys., B-401037.5, B-401037.6, Dec. 1, 2009, 2009 CPD ¶ 233 at 2; First Preston Hous. Initiatives, LP, B-293105.2, Oct. 15, 2004, 2004 CPD ¶ 221 at 5.

In sum, the record does not support the protester's assertion that the Air Force misled CSC into increasing its proposed staffing levels and cost. Rather, it reflects that the price evaluators had reasonable concerns regarding the staffing, hours, and cost proposed in CLIN X101 to perform the engineering tasks in PWS 3.3. Ultimately, CSC's decision to revise its proposed staffing and cost upward reflected the exercise of the firm's own business judgment and not improper conduct by the agency.⁸ See First Preston Hous. Initiatives, LP, supra, at 3. The protester's complaints on this issue are denied.

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"[DELETED]." Id. Based on this, the agency concluded that CSC failed to provide "justification that any reduction [DELETED]." Id. Rather, the agency noted that "complications brought on by [DELETED] may actually increase required engineering hours." AR, Tab 29, PAR, at 164. Although the protester argues that the agency should have considered additional information in the technical read library when assessing this efficiency, the record reflects that CSC did not rely on that additional information as support for this efficiency. It is an offeror's obligation to submit an adequately-written proposal for the agency to evaluate. United Def. LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 19. On this record, we find nothing unreasonable regarding the agency's evaluation.

⁸ We note that the record also reflects that CSC was not coerced, as the protester asserts, but rather, made an independent business judgment about how to respond to the agency's discussions. While an agency may not, in conducting discussions, coerce an offeror into raising its prices or altering any other aspect of its proposal, Serco Inc., B-407797.3, B-407797.4, Nov. 8, 2013, 2013 CPD ¶ 264 at 5, we will not find coercion in discussions where, as here, an agency provides information to an offeror which accurately reflects the agency's concerns, and leaves it to the offeror regarding how to respond. EMR, Inc., B-406625, July 17, 2012, 2012 CPD

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Unequal Discussions

Next, CSC contends that discussions were unequal because the agency held CSC to a higher standard than HPES in the evaluation of CLIN X101 staffing. Specifically, the protester asserts that the agency accepted efficiencies proposed by HPES, while not accepting similar efficiencies proposed by CSC. The protester raises similar objections about the level of scrutiny applied by the evaluators in their review of responses during discussions.

In connection with the requirement that discussions be meaningful, offerors may not be treated unequally; that is, offerors must be afforded equal opportunities to address the portions of their proposals that require revision, explanation, or amplification. Unisys Corp., B-406326 et al., Apr. 18, 2012, 2012 CPD ¶ 153 at 7. However, the requirement for equal treatment does not mean that discussions with offerors must, or should, be identical. To the contrary, discussions must be tailored to each offeror's own proposal. FAR §§ 15.306(d)(1), (e)(1); Metro. Interpreters & Translators, Inc., B-403912.4 et al., May 31, 2011, 2012 CPD ¶ 130 at 7.

Here, the record reflects that the agency's discussions were specifically tailored to each offeror's unique approach, and were not unequal. As relevant here, the record shows that the agency found that both the protester's and awardee's initial hours/costs for CLIN X101 were unrealistically low for their proposed technical approaches, and during discussions, the agency invited both offerors to either provide adequate justification for their proposed CLIN X101 engineering hours, or revise their proposals. In response, both offerors ultimately chose to increase their proposed hours and cost. Because the agency found that HPES' revised staffing and cost was realistic, the agency did not make a MPC adjustment to HPES' proposal for this CLIN. Although the agency made a MPC adjustment to CSC's proposal, as discussed above, the agency based the adjustment on the specific hours and efficiencies identified by CSC in CSC's EN response. AR, Tab 29, PAR, at 156. As also discussed above, we find reasonable the agency's evaluation regarding which of CSC's proposed efficiencies were realistic and substantiated. Accordingly, although the agency's discussions with CSC and HPES were not identical, the record reflects that the agency's discussions, and MPC adjustment, were properly tailored for CSC's specific proposed technical approach, staffing

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¶ 209 at 4-5; Academy Facilities Mgmt.--Advisory Opinion, B-401094.3, May 21, 2009, 2009 CPD ¶ 139 at 6. Here, CSC made an independent business judgment to increase its proposed staffing and cost--an action the agency's discussions questions did not instruct, force, or direct. An agency's discussions are not coercive merely because an offeror makes an independent business judgement that it later regrets.

hours and efficiencies, rather than based on a comparison to HPES' proposal or its proposed approach. See Metro. Interpreters & Translators, Inc., supra, at 7.

To the extent CSC challenges the propriety of discussions because HPES' proposed staffing and cost for CLIN X101 were lower than the target the agency set for the protester in the MPC calculation, as noted above, the MPC adjustment was based on the specific hours and efficiencies identified by CSC in CSC's EN response. AR, Tab 29, PAR, at 156. Accordingly, the agency's MPC adjustment was properly tailored for CSC's specific proposed technical approach, staffing hours and efficiencies, rather than based on a comparison to HPES' proposal or proposed approach. Based on the record, the mere fact that the agency made award to HPES based on lower proposed staffing hours and cost under CLIN X101 fails to show that the agency's discussions were not meaningful.

Challenges to HPES' Evaluation

Based on our conclusion that the Air Force did not engage in misleading or unequal discussions, we find that CSC is not an interested party to pursue its remaining challenges regarding the evaluation of HPES' proposal and the propriety of the agency's cost realism evaluation of HPES' proposed costs. As discussed above, a protester is not an interested party where it would not be in line for contract award were its protest to be sustained. See 4 C.F.R. § 21.0(a)(1); First Coast Serv. Options, Inc., supra. Here, the record reflects that there was an intervening offeror with a lower total evaluated cost/price than CSC's, and with the same substantial confidence past performance rating, and acceptable/low risk rating as CSC. See AR, Tab 30, SSDD, at 4. The protester does not challenge the Air Force's evaluation of this intervening offeror's proposal. Accordingly, we find that CSC is not an interested party to maintain its protest of the Air Force's evaluation of HPES' proposal or the award decision.

The protest is denied.

Susan A. Poling
General Counsel