



**DOCUMENT FOR PUBLIC RELEASE**

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

# Decision

**Matter of:** Amentum Services, Inc.

**File:** B-422719; B-422719.2

**Date:** September 20, 2024

---

Anuj Vohra, Esq., and Issac D. Schabes, Esq., Crowell & Moring LLP, for the protester. Kathleen D. Martin, Esq., Department of State, for the agency. Nathaniel S. Canfield, Esq., and Evan D. Wesser, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

1. Protest alleging that the agency unreasonably excluded the protester's proposal from a task order competition for failure to submit Iraq business licenses for two subcontractors is denied where the agency reasonably concluded from the information provided in the proposal that one subcontractor would be performing services in Iraq and therefore that the protester was required to submit an Iraq business license for that subcontractor, and the protester consequently cannot demonstrate competitive prejudice with respect to the second subcontractor.
  2. Protest that the agency improperly failed to amend the solicitation to remove a local national hiring requirement is denied where the agency states that it will continue to include the requirement because it is mandated by local law and the protester has not demonstrated that there has been a change in that law.
- 

## DECISION

Amentum Services, Inc., of Chantilly, Virginia, protests the exclusion of its proposal from competition under task order request for proposals (TORFP) No. 19QMM-24-R-0154, issued by the Department of State for support services in Iraq. The protester contends that the agency unreasonably eliminated its proposal from the competition for failure to include Iraq business licenses for two proposed subcontractors, and further that the agency's requirements have changed in such a manner as to require amending the TORFP and permitting the protester to submit a revised proposal.

We deny the protest.

## BACKGROUND

On May 16, 2024, the agency issued the TORFP pursuant to the fair opportunity source selection procedures of Federal Acquisition Regulation (FAR) subpart 16.5 to firms holding a Diplomatic Platform Support Services indefinite-delivery, indefinite-quantity (IDIQ) contract with the agency. Contracting Officer's Statement (COS) at 1, 3. The TORFP sought proposals to provide qualified personnel, transportation, supervision, and other services necessary for life support, operations and maintenance services to systems and facilities, and fuel procurement and distribution services at the United States Embassy and adjacent facilities in Baghdad, Iraq; the Department of Defense Union III Combined Joint Task Force Compound in Baghdad, Iraq; and the United States Consulate in Erbil, Iraq. *Id.* at 1. The TORFP contemplates issuance of a single time-and-materials task order with a five-year period of performance.<sup>1</sup> TORFP at 1, 41; AR, Tab 2, Performance Work Statement (PWS) at 4.

The TORFP provides for a best-value tradeoff utilizing a two-phase advisory down-select process. TORFP at 45. In the first phase, the agency is to evaluate offerors' relevant experience and past performance, assigning a confidence rating of high, some, or low confidence. *Id.* The agency then is to provide offerors with a recommendation whether to continue to the second phase. *Id.*

In the second phase, the agency is to evaluate nine aspects, including, as relevant here, Iraq business licenses. *Id.* In that regard, the TORFP instructs offerors to "provide a copy of a valid Iraq business license (appropriately translated), including all subcontractors performing in Iraq, to be considered for award." *Id.* at 43. Relatedly, the PWS requires "[t]he [c]ontractor and all subcontractors [to] maintain active and current Iraq business licenses throughout performance." PWS at 3. The TORFP provides that the agency will evaluate the Iraq business license requirement on a pass/fail basis. TORFP at 45.

The protester timely submitted a phase one proposal in response to the TORFP, and after evaluation, the agency requested that the protester submit a phase two proposal. COS at 3. In reviewing the protester's phase two proposal, the contracting officer was unable to locate Iraq business licenses for two of the protester's proposed subcontractors, [SUBCONTRACTOR A] and [SUBCONTRACTOR B]. *Id.* at 4. On June 24, the contracting officer emailed the protester, stating that the agency was unable to locate the Iraq business licenses for those subcontractors in the protester's proposal, and asking, "[o]n which pages are these licenses?" AR, Tab 8, June 24 Email to Amentum at 1.

The protester responded later that day. With respect to [SUBCONTRACTOR A], the protester stated that "[SUBCONTRACTOR A] operates under the [SUBCONTRACTOR Y] business entity on their Iraq Business License," and directed

---

<sup>1</sup> While contemplating a single award, the TORFP reserved the right for the agency to issue more than one task order. Agency Report (AR), Tab 1, TORFP at 1.

the agency to a letter in its proposal from [SUBCONTRACTOR A] explaining the relationship between those two firms. AR, Tab 9, June 24 Email to Agency at 1. With respect to [SUBCONTRACTOR B], the protester stated that “[SUBCONTRACTOR B] operates under the [SUBCONTRACTOR Z] business entity on their Iraq Business License,” and directed the agency to the relevant pages of its proposal containing the business license and a letter explaining the relationship between those two firms. *Id.*

On June 25, the agency notified the protester that its proposal would not be considered for award, as the protester’s proposal had not provided an Iraq business license for each subcontractor, as required by the TORFP. AR, Tab 10, June 25 Email to Amentum at 1. This protest followed.<sup>2</sup>

## DISCUSSION

The protester marshals two principal protest allegations. First, the protester challenges the agency’s evaluation of its proposal and decision to exclude it from the competition on the basis that the protester failed to provide the required evidence of Iraqi business licenses for two proposed subcontractors. Second, the protester contends that the agency’s needs have materially changed, and therefore the agency must amend the solicitation and allow for revised proposals. For the reasons that follow, we find no basis on which to sustain the protest.

### Subcontractor Iraq Business Licenses

The parties agree that the TORFP requires the submission of Iraq business licenses for subcontractors that will be performing in Iraq, and neither party contends the TORFP requires the submission of such licenses for subcontractors that will not be performing in Iraq. See Protest at 8; Memorandum of Law (MOL) at 3. The protester contends that the agency unreasonably applied this requirement to eliminate its proposal from the competition with respect to two proposed subcontractors.

The evaluation of proposals in task order competition is primarily a matter within the discretion of the procuring agency, since the agency is responsible for defining its needs and the best method of accommodating them. *United Support Servs., Inc.*, B-420724, Aug. 5, 2022, 2022 CPD ¶ 271 at 4. In reviewing a protest of an agency’s evaluation of proposals, it is not our role to reevaluate proposals; rather, our Office will examine the record to determine whether the agency’s judgment was reasonable and consistent with the solicitation criteria. *Id.* An offeror’s disagreement with the agency, without more,

---

<sup>2</sup> The TORFP includes a pricing attachment to be used by offerors in preparing their proposals, which, for evaluation purposes, includes agency-provided values for materials, equipment, other direct costs, fuel, food, and supplies totaling approximately \$840 million. See TORFP, attach. 2, CLINs and Annual Prices. We therefore conclude that this protest falls within our statutory grant of jurisdiction to hear protests in connection with task and delivery orders valued in excess of \$10 million issued under civilian agency multiple-award IDIQ contracts. 41 U.S.C. § 4106(f).

does not render the evaluation unreasonable. *STG, Inc., B-405101.3 et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

The protester first alleges that the agency unreasonably eliminated its proposal from the competition for failure to include an Iraq business license for [SUBCONTRACTOR A] because [SUBCONTRACTOR A] will not be performing in Iraq. Protest at 8. As further addressed herein, the protester's proposal stated that [SUBCONTRACTOR A] was teaming with another firm, [SUBCONTRACTOR Y], and the proposal included an Iraq business license for [SUBCONTRACTOR Y]. The protester alleges that an Iraq business license was not required for [SUBCONTRACTOR A] because it will not be performing in Iraq. *Id.* at 8-9.

The agency responds that the protester's proposal gave no indication that [SUBCONTRACTOR A] would not be performing in Iraq. MOL at 14-16. The agency points to the small business subcontracting plan in the protester's proposal, which identified "[SUBCONTRACTOR A]/ [SUBCONTRACTOR Y]" as providing operation and maintenance services, waste management, fuel, and labor, arguing that the nature of those services indicates that they would be provided in Iraq. *Id.* at 15 (citing AR, Tab 6, Amentum Small Business Subcontracting Plan at 22-23). The agency contends that the letter in the protester's proposal explaining the relationship between [SUBCONTRACTOR A] and [SUBCONTRACTOR Y] also did not indicate that [SUBCONTRACTOR A] will not be performing in Iraq. *Id.* at 14. While it states that [SUBCONTRACTOR A] and [SUBCONTRACTOR Y] will be engaging in joint efforts to pursue endeavors in Iraq and Kuwait, and refers to collaboration between the firms in Iraq, the agency argues that it does not indicate that [SUBCONTRACTOR A] will not be performing in Iraq. *Id.* (citing AR, Tab 7, Amentum Iraq Business Licenses at 221-224). Additionally, in response to the agency's contemporaneous clarification question regarding [SUBCONTRACTOR A]'s license, the protester did not represent that [SUBCONTRACTOR A] did not require a license because it would not be performing within Iraq, but, rather, pointed to the provided business license for [SUBCONTRACTOR A]'s teaming partner. *Id.* at 15-16. Consequently, the agency contends that it reasonably concluded that [SUBCONTRACTOR A] would be performing in Iraq, and therefore that the protester was required to submit an Iraq business license for that firm. *Id.* at 16.

In rebuttal, the protester argues that the agency's conclusion that an Iraq business license was required for [SUBCONTRACTOR A] was not reasonable. Comments at 9-11. The protester states that it provided an Iraq business license only for [SUBCONTRACTOR Y] because that firm would handle day-to-day operations in Iraq, while [SUBCONTRACTOR A] would provide logistical support in the United States. *Id.* at 9. The protester contends that, because its proposal indicated that [SUBCONTRACTOR A] constituted one half of a teaming arrangement, and because the protester submitted an Iraq business license only for the other half of that teaming arrangement--[SUBCONTRACTOR Y]--the only reasonable conclusion the agency could have drawn is that [SUBCONTRACTOR A] was not proposed to perform in Iraq and therefore did not require an Iraq business license. *Id.* at 10.

As we previously have stated, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation requirements, and an offeror risks having its offer evaluated unfavorably where it fails to submit an adequately written proposal. *PEAKE*, B-417744, Oct. 11, 2019, 2019 CPD ¶ 359 at 4. Agencies are not required to infer information from an inadequately detailed proposal, or to supply information that the protester elected not to provide. *Candor Sols., LLC*, B-417950.5, B-417950.6, May 10, 2021, 2021 CPD ¶ 199 at 9. In view of these standards, it was not unreasonable for the agency to conclude that the protester was required to submit an Iraq business license for [SUBCONTRACTOR A].

As the agency points out--and the protester does not refute--nowhere in the protester's proposal or in its response to the agency's request for clarification does the protester state that [SUBCONTRACTOR A] will be performing services only in the United States. The letter to which the protester directed the agency's attention states only that [SUBCONTRACTOR Y] is "the teaming partner of [SUBCONTRACTOR A] . . . for our joint efforts in pursuing endeavors in Iraq and Kuwait." AR, Tab 7, Amentum Iraq Business Licenses at 224. It expresses "confiden[ce] in our ability to deliver outstanding results in the projects and initiatives we undertake in the region[.]" and states that the two firms' "collaboration aims to leverage the strengths and synergies of both organizations to effectively navigate the challenges and capitalize on the opportunities presented in Iraq and Kuwait." *Id.* It does not detail the respective responsibilities of each firm, or in any way suggest that [SUBCONTRACTOR A] would provide stateside logistical support to [SUBCONTRACTOR Y]'s in-country performance. In the absence of adequate detail or information in the protester's proposal to demonstrate that [SUBCONTRACTOR A] would be performing services in the United States only, it was reasonable for the agency to conclude from the information that was in the protester's proposal that [SUBCONTRACTOR A] would be performing in Iraq, and therefore that the protester was required to submit an Iraq business license for it.<sup>3</sup> Accordingly, we deny this protest allegation.

---

<sup>3</sup> Furthermore, the fact that the protester did not submit an Iraq business license for [SUBCONTRACTOR A] does not compel the conclusion that [SUBCONTRACTOR A] would not be performing in Iraq. The agency could rely only on the information that the protester submitted in its proposal, and it was not required to presume compliance based on what it reasonably understood as a non-compliant proposal. *See, e.g., Digital Equip. Corp.*, B-235665, Sept. 21, 1989, 89-2 CPD ¶ 260 at 6-7 ("An offeror is not entitled to a favorable presumption in this regard because of its reputation, prior performance, or presumed intention; rather, compliance must be based on what the offeror actually submitted in its proposal."). Similarly, to the extent that Amentum's protest submissions attempt to more clearly articulate the proposed relationship between [SUBCONTRACTOR A] and its teaming partner, our review is limited to Amentum's proposal as submitted; in this regard, contracting agencies are not responsible for evaluating information that is not included in a proposal. *Patriot Def. Grp., LLC*, B-418720.3, Aug. 5, 2020, 2020 CPD ¶ 265 at 9.

Because the record supports the rejection of the protester's proposal for the failure either to provide an Iraq business license for [SUBCONTRACTOR A] or to clearly demonstrate why no such license was required, the protester was not competitively prejudiced by any errors regarding the evaluation with respect to [SUBCONTRACTOR B]. Competitive prejudice is an essential element of any viable protest, and where none is shown or otherwise evident, we will not sustain a protest, even where a protester may have shown that an agency's actions arguably were improper. *VSolvit, LLC*, B-418265.2, B-418265.3, July 30, 2020, 2020 CPD ¶ 259 at 6. Here, even if the protester could show that the agency improperly concluded that the protester was required and failed to submit an Iraq business license for [SUBCONTRACTOR B], the agency properly rejected its proposal as unacceptable. Consequently, the protester cannot demonstrate any competitive prejudice arising out of the agency's evaluation with respect to [SUBCONTRACTOR B], and we need not further consider the protester's allegation regarding that aspect of the evaluation.<sup>4</sup>

### Changed Requirements

After the agency responded to the initial protest and the protester filed its comments, the protester filed a supplemental protest alleging that the agency's requirements had changed, such that the agency was required to amend the TORFP and permit the protester to submit a revised proposal. Specifically, the protester alleges that current agency challenges in approving local national (LN) hiring packages under the

---

<sup>4</sup> The protester further contends that the agency's June 24 email constituted discussions because its purpose was to obtain information essential to determining the acceptability of the protester's proposal. Protest at 9-10. The protester argues that the email constituted misleading discussions on the basis that the contracting officer did not convey the seriousness of his concern because he did not reference the fact that the Iraq business licenses were a pass/fail requirement or indicate that the agency was considering excluding the protester's proposal from the competition. *Id.* at 11.

To the extent the protester asserts that the principles governing discussions might apply to the parties' email exchange, we need not and do not resolve those assertions here. In this context, we do not view the agency's email as misleading. As discussed above, the contracting officer stated that he was unable to locate Iraq business licenses for [SUBCONTRACTOR A] and [SUBCONTRACTOR B] in the protester's proposal, thereby indicating the agency's concern that those licenses were required but not apparent in the proposal. He then asked the protester to identify where those licenses could be found in the proposal, thereby requesting information that would permit the agency to determine whether the proposal complied with the TORFP's requirements. The protester was aware of both the existence of those requirements and their pass/fail nature, as they are explicitly detailed in the TORFP. The agency's email therefore was sufficiently detailed as to notify the protester of the nature of the agency's concerns. On this record, we conclude that a reasonably diligent offeror would have correctly understood, or requested clarification of, the agency's email.

predecessor effort currently being performed by the protester demonstrate that it will be impossible for offerors to achieve a 50 percent LN workforce, as required by the PWS. Supp. Protest at 11-12. In support of that allegation, the protester cites an August 21 conversation with a senior program analyst in the agency's contract management office, in which he stated that the agency office responsible for vetting LN hiring packages lacked sufficient personnel to review packages submitted by the protester and that the agency was working on, but as yet unable to effectuate, a solution. *Id.* at 8-9. The protester alleges, therefore, that the agency no longer can reasonably impose the LN workforce requirement. *Id.* at 12. The protester alleges that if the TORFP did not include that requirement, the protester would not have proposed either [SUBCONTRACTOR A] or [SUBCONTRACTOR B] as subcontractors, as it included them for purposes of meeting the 50 percent LN workforce requirement.<sup>5</sup> *Id.* at 12-13.

In response, the agency provides a declaration from the director of the contract management office for the United States Mission Iraq contracts, in which he avers that the agency intends to continue to include the 50 percent LN workforce requirement, which is required to comply with Iraq labor laws regarding workforce composition. See AR, Tab 12, Decl. of Director of Contract Management Office at 2. Consequently, the agency responds, its requirements in that regard have not changed, and the agency is not required to amend the TORFP. Supp. MOL at 10-11.

An agency has the discretion to determine its needs and the best way to meet them. *Signature Consulting Grp., LLC*, B-416570, Oct. 18, 2018, 2018 CPD ¶ 375 at 5. Generally, where an agency's requirements materially change after a solicitation has been issued, it must issue an amendment to notify offerors of the changed requirements and afford them an opportunity to respond. FAR 15.206(a); *Sigmatech, Inc.*, B-417589 *et al.*, Aug. 27, 2019, 2019 CPD ¶ 306 at 4. The object of this requirement is to avoid award decisions not based on the agency's most current views of its minimum needs. *Id.*

Although the protester asserts that the scope of the task order has changed in light of a current backlog in approving LN hiring packages, a cognizant agency official has affirmatively stated in a sworn declaration that the agency intends to continue including the LN workforce requirement. Furthermore, as the agency points out, the LN workforce requirement is included in the TORFP because it is a requirement of Iraq law. To that end, the PWS requires the selected contractor to "follow Iraq labor laws for LN hiring levels." PWS at 8. To whatever extent the protester is currently experiencing challenges in gaining agency approval of LN hiring packages in sufficient numbers to

---

<sup>5</sup> Based on the same August 21 conversation, the protester also alleged that the agency was required to amend the TORFP to reflect changing requirements with respect to support services for the Union III Combined Joint Task Force Compound, but it subsequently withdrew that allegation. See Supp. Comments at 1 n.2.

meet that requirement under the predecessor effort,<sup>6</sup> those challenges do not suggest that there has been--or imminently will be--a change in Iraq law such that the agency will not be compelled to include the LN workforce requirement in the TORFP. Accordingly, we have no basis to conclude that the scope of the task order will change, as the protester asserts.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel

---

<sup>6</sup> The parties disagree as to whether the protester or the agency is responsible for backlogs in LN hiring package approvals. See AR, Tab 12, Decl. of Director of Contract Management Office at 2; Supp. Comments at 10. We need not--and do not--resolve that dispute to resolve this protest. We note in this regard, however, that the agency's waiver or inability to otherwise reasonably implement certain requirements on a previous contract has no bearing on the propriety of the agency's conduct under this procurement. Each procurement is a separate transaction and an action taken under one procurement is not relevant to the propriety of the action taken under another for the purposes of a bid protest. See, e.g., *Erickson Aero Tanker*, B-411306.2, B-411306.5, July 29, 2015, 2015 CPD ¶ 226 at 8 (denying protest that an agency's enforcement of aircraft safety requirements was unduly restrictive of competition merely because the government had waived the requirements under the protester's predecessor contract).