

# Decision

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**Matter of:** Saalex Solutions, Inc.

**File:** B-418729.3

**Date:** July 23, 2021

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John E. McCarthy Jr., Esq., and William B. O'Reilly, Esq., Crowell & Moring LLP, for TeleSolv Consulting, Inc., the intervenor.

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Heather Weiner, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest that the agency failed to assign additional strengths to the protester's proposal under the management and staffing approach factor is dismissed as untimely where the protester failed to challenge the agency's assessment of strengths within 10 days after receiving documentation of its evaluation during an earlier debriefing, and the record reflects that the agency's subsequent decision to reevaluate proposals in response to a different offeror's protest did not affect the assessment of the strengths at issue in the protester's proposal or the proposal features on which the strengths were based. Under these circumstances, the decision to reevaluate proposals also did not revive the protester's ability to file a timely protest challenging conclusions first reached during the earlier evaluation, which this company did not protest.
  2. Protest challenging evaluation of awardee's proposal is dismissed where protester's allegations, which are based on speculation, do not establish a valid basis of protest and are legally insufficient.
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## DECISION

Saalex Solutions, Inc., a service-disabled veteran-owned small business (SDVOSB) of Camarillo, California, protests the issuance of a task order to TeleSolv Consulting, Inc., an SDVOSB of Washington, District of Columbia, under request for proposals (RFP) No. N0025319R3501, issued by the Department of the Navy, Naval Sea Systems Command, for business and administrative support services. The protester challenges various aspects of the agency's evaluation of the protester's and awardee's technical proposals.

We dismiss the protest.

## BACKGROUND

The solicitation was issued on July 26, 2019, pursuant to Federal Acquisition Regulation part 16, to SDVOSB holders of the Navy's SeaPort Next Generation (SeaPort-NxG) indefinite-delivery, indefinite-quantity (IDIQ) multiple-award contract. Protest, exh. 5, RFP, amend. 0003 at 1; Supp. Req. for Dismissal, exh. 1, Declaration of Contracting Officer (Decl. of CO) at 1. The solicitation contemplated issuance of a cost-plus-fixed-fee task order for a base year and four option years. RFP, amend. 0003 at 1; Decl. of CO at 1. Award was to be made on a best-value tradeoff basis considering the following factors: management and staffing approach, technical capability, past performance, and cost/price. RFP, amend. 0003 at 15-16.

The agency received eight proposals, including proposals from Saalex and TeleSolv. Decl. of CO at 1. After the evaluation, on April 30, 2020, the agency issued a task order to TeleSolv. *Id.* at 2. On May 2, Saalex received a debriefing from the Navy. Protest, exh. 4, May 2, 2020 Debrief at 1-4. The debriefing listed the ratings for all factors for both Saalex's and TeleSolv's proposals. *Id.* at 1. It also detailed, for Saalex's proposal, any strengths, weaknesses, or deficiencies that had been identified by the agency for each factor. *Id.* at 1-4. Despite receiving this information, Saalex did not file a protest challenging the agency's evaluation at that time. On May 11, 2020, however, another unsuccessful offeror filed a protest with our Office challenging the Navy's selection of TeleSolv for the task order. Decl. of CO at 2. Ultimately the agency decided to take corrective action in response to this unrelated protest by establishing a competitive range, reevaluating proposals, and making a new selection decision. As a result, our Office dismissed that protest as academic. *Id.*

On April 12, 2021, the agency notified Saalex that it had again selected TeleSolv for issuance of the task order, which has a potential total value of \$49,072,993. Protest, exh. 3, Notice of Award at 1. After receiving a debriefing, Saalex filed this protest with our Office.<sup>1</sup>

## DISCUSSION

Saalex challenges the evaluation of its proposal under the management and staffing approach factor, arguing that it should have been credited for additional strengths under this factor. The protester also challenges the evaluation of the awardee's proposal under the management and staffing approach, technical capability, and past performance factors, arguing that the agency failed to recognize the superiority of

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<sup>1</sup> This procurement is within our jurisdiction to hear protests related to the issuance of task orders under multiple-award IDIQ contracts awarded under the authority of title 10 of the United States Code, where the awarded value of the task order at issue exceeds \$25 million. 10 U.S.C. § 2304c(e)(1)(B).

Saalex's proposal over the awardee's.<sup>2</sup> Based on these evaluation errors, Saalex also contends that the agency failed to conduct a proper best-value tradeoff determination.

The agency asks our Office to dismiss all of Saalex's protest grounds, maintaining that they are untimely; legally insufficient, *i.e.*, fail to state a valid basis of protest; and/or speculative. Req. for Dismissal at 2-11. On this record, we agree and dismiss the protest grounds as discussed below.

### Management and Staffing Approach Factor

Saalex first challenges the evaluation of its proposal under the management and staffing approach factor, alleging that its proposal should have been credited for additional strengths under this factor. Alternatively, the protester asserts that, standing alone, the two strengths its proposal received under this factor--for staffing and quality assurance--should have merited an "outstanding" rather than "good" rating. Protest at 7-14.

The agency asserts that these arguments are untimely because the "evaluation findings Saalex seeks to challenge are identical to those disclosed" to Saalex in its earlier May 2, 2020 debriefing, but the protester failed to challenge them at that time. Req. for Dismissal at 3.

Our timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. *Cleveland Telecomms. Corp.-Recon.*, B-247964.4, Nov. 12, 1992, 92-2 CPD ¶ 340 at 3. Under our timeliness rules, protests based on other than alleged improprieties in a solicitation must be filed not later than 10 days after the protester knew or should have known of the basis for its protest, whichever is earlier, or within 10 days of the date a required debriefing is held. 4 C.F.R. § 21.2(a)(2). The fact that an agency elects to reevaluate proposals and make a new source selection decision in response to a protest filed by a different unsuccessful offeror does not provide a basis for reviving untimely, and never previously raised, protest allegations for this offeror.

Here, we conclude that the protest grounds are untimely.<sup>3</sup> Although Saalex argues that its protest is timely given the agency's decision to require the submission of revised

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<sup>2</sup> Saalex also filed a supplemental protest arguing that the agency failed to fully implement its corrective action, but later withdrew that protest ground. See Supp. Protest & Response at 1; Reply at 2 ("Saalex withdraws its supplemental protest.").

<sup>3</sup> The protester also points to the Navy's evaluation of the protester's proposal under the other three factors--technical capability, past performance, and cost/price--and argues that it "highlight[s] the irrationality" of the agency's evaluation of Saalex's proposal under the management and staffing approach factor as only "good." Supp. Protest & Response at 8; Protest at 14-19. For example, the protester points out that for the

proposals, after the protester learned of the two strengths and “good” rating assessed to its proposal under the management and staffing approach factor, we find the grounds untimely because these subsequent events did not affect the assessment of the strengths at issue, including the proposal features on which the strengths were based, or the “good” rating for this factor. See *360 It Integrated Sols.*, B-414650.33, B-414650.34, May 24, 2019, 2019 CPD ¶ 199 at 7.

The record reflects that the protester was aware of its proposal’s rating and the strengths assessed under the management and staffing approach factor based on the debriefing it received on May 2, 2020. Compare Protest, exh. 4, May 2, 2020 Debrief at 1 (explaining Saalex received strengths for “identif[ying] a unique approach within its staffing plan to improve [human resources] HR responsiveness” and “present[ing] a thorough quality assurance plan,” which merited an overall rating of “Good”), *with id.*, exh. 2, April 12, 2021 Debrief at 2 (same). Accordingly, to be timely, Saalex was required to file a protest with our Office no later than 10 days after May 2, 2020. See 4 C.F.R. § 21.2(a)(2). Because the protester did not challenge the agency’s evaluation with regard to the management and staffing approach factor at that time, these allegations are untimely and therefore dismissed.<sup>4</sup>

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technical capability factor, Saalex’s proposal was assessed two strengths and no weaknesses and rated as ‘Outstanding,’” while for the management and staffing approach factor, Saalex’s proposal was “assessed two strengths and no weaknesses and rated as ‘Good.’” Supp. Protest & Response at 8. The protester contends that this “inconsistency is unreasonable” and shows that the agency’s evaluation under the management and staffing approach factor was improper. In light of our finding that the protester’s challenge to its evaluation under the management and staffing approach factor is untimely, we likewise do not address this aspect of the protester’s argument for the same reason. In any event, to the extent the protester’s contention is that it should have been assigned a higher adjectival rating based solely on the number of evaluated strengths identified by the agency during its evaluation, the protester fails to assert a valid basis for protest because the allegation argues for a mechanical rating based on the number of strengths, and does not demonstrate that the agency unreasonably assessed the underlying technical merit of the firm’s proposal. See *Southwind Constr. Servs., LLC*, B-410333.2, Jan. 21, 2015, 2015 CPD ¶ 64 at 6; 4 C.F.R. § 21.1(c)(4), (f).

<sup>4</sup> We similarly find untimely the protester’s challenge to the agency’s evaluation of the awardee’s proposal under the management and staffing approach factor. The protester argues that it is “inconceivable” that the awardee’s proposal could receive an overall higher rating under this factor than Saalax’s proposal in light of Saalex’s “experience and competencies” as the incumbent contractor. Protest at 5, 21. The protester therefore contends that “TeleSolv’s proposed Management and Staffing Approach should be rated below Saalex’s, and certainly not rated higher than Saalex’s.” *Id.* at 23.

The record reflects, however, that Saalax was provided with the information upon which this protest ground is based--namely that Telesolv’s proposal received an “outstanding” rating under the management and staffing approach factor, and that Saalax’s proposal

## Evaluation under Other Factors

Saalex next challenges the Navy's evaluation of TeleSolv's proposal under the technical capability and past performance factors, arguing that the agency unreasonably evaluated the awardee's proposal. The agency requests that we dismiss these protest grounds as legally insufficient because the protester bases its challenges to the agency's evaluation of the awardee's proposal on its speculation with regard to the contents of the awardee's proposal, without actual knowledge as to the contents. For the reasons discussed below, we agree.

The jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556. Our role in resolving bid protests is to ensure that the statutory requirements for full and open competition are met. *Pacific Photocopy & Research Servs.*, B-278698, B-278698.3, Mar. 4, 1998, 98-01 CPD ¶ 69 at 4. To achieve this end, our Bid Protest Regulations require that a protest include a sufficiently detailed statement of the grounds supporting the protest allegations. 4 C.F.R. §§ 21.1(c)(4), 21.1(f), and 21.5(f). That is, a protest must include sufficient factual bases to establish a reasonable potential that the protester's allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. *Ahtna Facility Servs., Inc.*, B-404913, B-404913.2, June 30, 2011, 2011 CPD ¶ 134 at 11. Unsupported assertions that are mere speculation on the part of the protester do not provide an adequate basis for protest. *Science Applications Int'l Corp.*, B-265607, Sept. 1, 1995, 95-2 CPD ¶ 99 at 2.

The protester first contends that the agency's evaluation of the awardee's proposal under the technical capability factor was flawed. The protester notes that the rating of TeleSolv's proposal under the factor improved from "acceptable" to "outstanding" after corrective action, and asserts that TeleSolv could not have gained sufficient experience during the pendency of corrective action to justify such a change." Protest at 23. Based solely on this change in rating, the protester surmises that TeleSolv must have relied on subcontractors for its experience under this factor. See *id.* (maintaining that "TeleSolv cannot be expected to perform at the level of its ratings without subcontractor support"). The protester then claims that "subcontractor dependency is a risk" and that the agency

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received a "good" rating under this factor--during Saalex's earlier May 2, 2020 debriefing, but the Navy's corrective action did not change this evaluation. Req. for Dismissal at 4; *compare* Protest, exh. 4, May 2, 2020 Debrief at 1 (disclosing TeleSolv received an "outstanding" rating, with *id.*, exh. 2, April 12, 2021 Debrief at 1 (same). Accordingly, to timely challenge the fact that Telesolv received a higher overall rating than Saalex under the management and staffing approach factor, the protester was required to file a protest with our Office within 10 days of the May 2, 2020 debriefing. 4 C.F.R. § 21.2(a)(2). The protester's failure to raise this challenge at that time renders it untimely here. As a result, this protest ground is also dismissed.

improperly failed to recognize the superiority of Saalex's proposal over the awardee's proposal because "Saalex clearly represents a much less risky offeror." *Id.*

As pertinent here, for the technical capability factor, the solicitation provided that proposals would be evaluated "on the knowledge and capability to perform the [performance work statement] PWS" based on "demonstrated specific examples of corporate experience in performing similar tasking." RFP, amend. 0003 at 17. It further specified that proposals "shall clearly demonstrate corporate experience of the Prime and Subcontractors in relation to the taskings to be performed under this solicitation." *Id.*

The protester's assumption that TeleSolv's proposal relied on subcontractor experience for this factor, which as noted above, was permitted by the RFP, and the fact that TeleSolv's overall rating for the technical capability factor changed from "acceptable" to "outstanding" during the reevaluation, do not provide a sufficient factual basis, without more, for the protester's assertion that the agency's evaluation of the awardee's proposal was improper. As previously mentioned, unsupported assertions that are mere speculation by the protester do not provide an adequate basis for protest and will be dismissed. *Science Applications Int'l Corp., supra*; 4 C.F.R. § 21.5(f).

The protester also asserts that the agency failed to recognize that Saalex's past performance was superior to the awardee's past performance. See Protest at 23 ("Simply put, TeleSolv is a far less experienced contractor in this arena than Saalex and the Navy failed to account for this in its award decision as it was required to do."). In making this assertion, Saalex again relies on the improvement in TeleSolv's overall rating between the pre-corrective action evaluation and final evaluation results. See Protest at 23-24 ("[F]or TeleSolv's confidence rating to jump from Neutral to Substantial in one year defies logic and is unjustified.").

The protester, in support of its assertion, points to "[p]ublic information available on resources such as usaspending.gov" and "Govwin" and contends that TeleSolv "has done very little work for Department of Defense components and the Navy in particular."<sup>5</sup> Protest at 23-24. According to the protester, these sites show that the "vast majority of TeleSolv's work has historically been with the Department of Homeland Security (DHS) and U.S. Coast Guard." *Id.* at 23. As the agency points out, however, the protester fails to cite to any part of the solicitation criteria that makes the identity of the agency material to the past performance evaluation. Req. for Dismissal at 10. Again, we find that the protester has not provided a sufficient basis for its assumption that the awardee's rating could not have improved, and therefore, the agency's past performance evaluation must have been improper.<sup>6</sup>

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<sup>5</sup> Saalex fails to provide any citations to any of the vague "resources" it references.

<sup>6</sup> Also, in the debriefing questions and answers (Q&As), the Navy explained that "[d]uring discussions, [it] advised Offerors of references that it considered Somewhat Relevant or Not Relevant." Protest, exh. 1, Debrief Q&A, Q2. For the awardee's

In sum, we conclude that both of these protest grounds--concerning the agency's evaluation of the awardee's proposal with regard to technical capability and past performance--are based on nothing more than the protester's speculation and supposition. Accordingly, we dismiss the protester's arguments because the protester's speculation is insufficient to state a valid basis for protest. 4 C.F.R. §21.5(f).

#### Best-Value Tradeoff

Finally, Saalex also argues that the agency's best-value tradeoff decision was improper because it was based on a flawed evaluation. These allegations are derivative of Saalex's various challenges to the agency's evaluation, which we have concluded are untimely or fail to provide a valid basis of protest. Accordingly, we dismiss Saalex's challenges to the best-value tradeoff because derivative allegations do not establish an independent basis of protest. *Computer World Servs.*, B-417356, May 16, 2019, 2019 CPD ¶ 185 at 5 n.4.

The protest is dismissed.

Thomas H. Armstrong  
General Counsel

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proposal, the Navy stated that "TeleSolv replaced all of its original references with different references in its final proposal revision." *Id.* The Navy further explained that "[p]er the evaluation criteria in Section M of the solicitation," the past performance evaluation team considered the references provided in TeleSolv's final proposal revision to be "recent, relevant when considering scope, complexity, and magnitude, and all performance ratings were [s]atisfactory or better." *Id.* In other words, the Navy provided a reasonable explanation for the improvement in TeleSolv's past performance rating.