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**FINAL DAY FILING
PLEASE CONTACT AGENCY BY NOON TODAY TO INITIATE CICA STAY**

April 25, 2016

VIA EMAIL

Procurement Law Control Group
Government Accountability Office
441 G Street NW
Washington, DC 20548

**RE: PRE-AWARD PROTEST OF CACI, INC. OF RFP NO. HC1028-15-R-0030,
ISSUED BY DISA FOR ENCORE III PROGRAM**

Dear Sir/Madam:

CACI, INC.-FEDERAL (CACI), by and through its undersigned counsel, submits this pre-award protest challenging the terms of request for proposal (RFP) No. HC1028-15-R-0030, issued by the Defense Information Systems Agency (DISA), as ambiguous, inconsistent with law, and unsuitable for the type of procurement provided for here.

PROCURING AGENCY INFORMATION

The contracting officer for this procurement is Steven Francoeur, who may be reached at 2300 East Drive, Scott Air Force Base, Illinois, 62225-5406; disa.scott.ditco.mbx.encore3@mail.mil; tel. no. (618) 229-9672.

PROTESTER INFORMATION

CACI is located at 14370 Newbrook Drive, Chantilly, Virginia 20151. All communications in connection with this protest should be addressed to Sharon L. Larkin, Steptoe & Johnson, LLP, 1330 Connecticut Avenue NW, Washington, DC 20005, tel. (202) 429-6287, fax (202) 429-3902, slarkin@steptoe.com.

INTERESTED PARTY STATUS

CACI is an actual or prospective offeror whose direct economic interest is impacted by the agency's failure to award it this contract due to the flawed solicitation. As such, it is an interested party to file the protest. 4 C.F.R. § 21.0(a)(1).

TIMELINESS OF PROTEST AND CICA STAY

The date and time for receipt of proposals is noon (central time) today, April 25, 2016. RFP, cover.¹ This protest is timely filed because it is filed before the due date and time set forth in the solicitation. 4 C.F.R § 21.2(a)(2). In addition, because this is a timely filed pre-award protest and award has not been made, CACI is entitled to a statutory stay of contract award and performance in accordance with the Competition and Contracting Act (CICA). 31 U.S.C. § 3553(c). **Accordingly, CACI requests that GAO immediately notify the contracting officer by noon today that this protest has been filed so that a statutory stay of award and performance is in effect pending resolution of this protest.**

BACKGROUND

The RFP here seeks to award an indefinite-delivery/indefinite-quantity (IDIQ) contract for the "Encore III" program. This program is to provide global information technology (IT) services to the military, Department of Defense, and other federal agencies. RFP at 16, 17. The general scope of work includes 19 "performance areas," or categories of services; each of these performance areas is addressed by different sections of the performance work statement (PWS). *Id.* at 17.

The RFP contemplates up to 20 large business awards² for a 5-year base period and five 1-year options, for a total of 10 years; the maximum ordering amount is \$17.5 billion. *Id.* at 13, 17. The RFP further contemplates issuing a blend of fixed price and cost reimbursement contract line item numbers (CLINs) for "IT Solutions" during each of the base and option periods. *Id.* at 2, 4, 6, 8, 10, 12.

The RFP provides for a lowest price technically acceptable (LPTA) evaluation based on the evaluation factors of technical/management, past performance, and price. *Id.* at 137-39. To evaluate technical/management, the solicitation identifies a "Problem Statement," the purpose of which is "to provide a scenario, whereby offerors are required to submit evidence of the offeror's ability to satisfy the technical requirements of corresponding subfactors." *Id.* at 128. For the full and open competition here, the RFP includes only one problem statement, which states in total:

¹ Citations to the RFP are to the conformed RFP, attached as Exhibit 1, which includes amendments 1 through 4.

² The RFP also contemplated up to 20 small business awards. The large and small business evaluations were referred to as separate "suites." Only the large business suite is the subject of this protest.

A Federal Government agency has a requirement to build an Enterprise/Mission Custom Software Application (non-COTS) to support its customer base. The project is being executed in accordance with the DoD 5000.02, Operation of the Defense Acquisition System.

Id. at 143. No further information about the problem is provided, and the solicitation does not seek solutions or approaches to this problem. Instead, the RFP only requires offerors to identify “recent and relevant experience” in 6 of the 19 performance areas identified in the PWS. *Id.* at 143-44. The 6 performance areas are identified as 7 subfactors (one performance area is mentioned twice), are generally associated with PWS provisions, and are vaguely described.³ *Id.* An acceptable rating is possible if the offeror meets the minimum requirements by demonstrating experience in the area. *Id.* at 144.

Past performance also will be evaluated on an acceptable/unacceptable basis, with an acceptable rating assigned if, from the offeror’s history of recent and relevant performance, the government has a “reasonable expectation” of successful performance, or the offeror has no record of performance. *Id.* at 145.

For cost/price, the RFP includes a pricing template with identified labor categories and descriptions of those categories. *Id.* at 132. Offerors are to provide burdened labor rates for these categories. *Id.* The RFP announces that the agency will calculate total pricing by multiplying these rates by unidentified hour estimates; the RFP expressly states that “[t]he **estimated labor hours used for evaluation purposes will not be provided to the offerors until after award.**” *Id.* at 146 (emphasis added).

The evaluation scheme is described in the RFP as follows. The agency will first conduct a price analysis by taking offerors’ burdened labor rates from the pricing template and multiplying them by the undisclosed labor hour estimates, to calculate a total price. *Id.* at 138-39, 146-47. Pricing will also be assessed for completeness, reasonableness, and unbalanced pricing.⁴ *Id.* After the calculation of total price, the agency intends to list the offerors in price order and then exclude the top 10% and bottom 10%. *Id.* at 138. After that initial exclusion, the agency will average the remaining prices to calculate a “trimmed average” and then further eliminate offerors that are 50% above and 50% below that average. *Id.* at 138-39. The agency will also check to see if offerors complied with proposal instructions, reserving the right to eliminate offers that are non-compliant. *Id.*

³ The performance areas are: enterprise IT policy and planning (area 1); requirements analysis (area 5); custom application developments (area 8); product integration (area 9); test and evaluation (area 10); and operations support (area 17, listed in two subfactors). RFP at 143-44.

⁴ The RFP does not provide for any evaluation of indirect costs or any of the cost elements, nor any evaluation of cost realism to assess cost/price for the cost reimbursement CLINs. RFP at 137-39, 146-47.

Once the price analysis is performed, the agency will take up to 20 of the lowest priced offers and evaluate them to determine if they meet “minimum qualifications,” and then determine if they are acceptable under the technical/management and past performance factors. *Id.* at 139, 147. From this, the agency will select its awardees. *Id.* The agency intends to make award without discussion. *Id.* at 137.

The above facts are incorporated into CACI’s grounds of protest below.

PROTEST GROUNDS

CACI protests the terms of the RFP because the solicitation is ambiguous, inconsistent with law, and unsuitable for the type of procurement here.

Agencies are required by CICA to consider cost and price in evaluating competitive proposals. 10 U.S.C. 2305(a)(3)(A)(ii). Furthermore, a solicitation’s evaluation factors and subfactors must “[s]upport meaningful comparison and discrimination between and among competing proposals.” FAR 15.304(b)(2). Although an agency has discretion to decide an “appropriate, reasonable method” for proposal evaluation, it cannot use an evaluation method that produces a misleading result. *Aalco Forwarding, Inc.*, B-277241.15, Mar. 11, 1998, 98-1 CPD ¶ 87, at *7; *Health Servs. Int’l, Inc.; Apex Envtl., Inc.*, B-247433, B-247433.2, June 5, 1992, 92-1 CPD ¶ 493 at *2-4.⁵ The evaluation method must include some reasonable basis for evaluating or comparing the relative costs of proposals, so as to establish whether one offeror’s proposal would be more or less costly than another’s. *See Health Servs. Int’l, Inc.; Apex Envtl., Inc., supra*. In addition, offerors must be given sufficient detail in a solicitation to allow them to compete intelligently and on a relatively equal basis, and the solicitation should not be ambiguous. *Fabrics Plus, Inc.*, B-218546, July 12, 1985, 85-2 CPD ¶ 46 at *3; *Cannon USA, Inc.*, B-213554, Aug. 20, 1984, 84-2 CPD 195 at *3.

Establishing a cost/price evaluation scheme for IDIQ contracts can be particularly challenging because the agency’s needs are indeterminate. However, a solicitation for an IDIQ contract must contain reasonable estimated quantities because, without them, offerors lack information that may be necessary to compete intelligently and on an equal basis. *Fabrics Plus, Inc., supra*; *Cannon USA, Inc., supra*, at *3-4; *see also West Coast Copy, Inc.; Pacific Photocopy & Research Servs.*, B-254044 *et al.*, Nov. 16, 1993, 93-2 CPD ¶ 283 at *5; *Health Servs. Int’l, Inc., Apex Envtl., Inc., supra*. Where estimates for various types of required services are not reasonably available, an agency may establish a reasonable hypothetical, consistent with the RFP requirements, to provide a common basis for comparing the relative costs of the proposals. *Aalco Forwarding, Inc., supra*, at *7. However, where estimates are available and not provided, GAO will conclude that the solicitation is defective and will sustain the protest. *West Coast Copy, Inc; Pacific Photocopy & Research Servs., supra; Fabrics Plus, Inc., supra*.

⁵ Where actual page numbers are not available through published decisions on GAO’s website, we identify the Westlaw page cite (noted by an asterisk preceding the page number) to assist GAO in its review.

Finally, in contracts with cost reimbursable components, as in the case here, agencies are required to consider cost realism, since proposed costs are not controlling. FAR 15.404-1(d); *Jonathan Corp.; Metro Machine Corp.*, B-251698 *et al.*, May 17, 1993, 93-2 CPD ¶ 174 at *8. Mechanical applications of estimates, without independently evaluating the realism of proposed costs, can provide GAO with a basis of sustain. *Orion Tech., Inc.; Chenega Integrated Mission Support, LLC*, B-06769 *et al.*, Aug.22, 2012, 2012 CPD ¶ 268 at 3-6; *Jonathan Corp.; Metro Machine Corp.*, *supra*. Price analysis is not an adequate substitute for cost realism analysis.

I. The RFP Is Defective Because It Fails To Provide Estimated Quantities Or Any Reasonable Alternative.

The RFP here announces that the agency intends to evaluate price by multiplying proposed rates by estimated quantities. RFP at 146-47. The RFP further states that these estimates will not be disclosed to offerors until after award. *Id.* at 146. This solicitation and the contemplated evaluation scheme are defective because the RFP fails to disclose known estimated quantities that the agency intends to use in the evaluation.

As noted above, the agency has an obligation to provide reasonable estimates to allow offerors to compete intelligently and on an equal basis. Estimates are necessary here because offerors may propose different rates depending on the quantities ordered; they may give discounts for larger quantities, for example. In *Fabric Plus, Inc.*, *supra*, GAO sustained a protest where the agency failed to disclose estimates; key in GAO's decision was that the agency did not state it was unable to provide estimates. *Id.* at *3-4; *see also West Coast Copy, Inc.; Pacific Photocopy & Research Servs.*, *supra*, at *7 (GAO sustained protest because estimates could be provided); *cf. Cannon, Inc.*, *supra*, at *3-4 (GAO denied protest because no estimates could be computed and best available information was disclosed). Here, the agency has the labor estimates it intends to use in the evaluation, but it chooses not to disclose them. There is no way for offerors to know what quantities the agency intends to use in the evaluation or what quantities the agency intends to purchase over time, which as noted above, will affect rates. This withholding of critical information is unreasonable and impedes CACI's ability to compete intelligently.⁶ Furthermore, there can be no question that reasonably accurate information is available to the agency to enable it to disclose its estimates. The Encore III program is a follow on to earlier Encore programs, so historical and recent data are available and can be used by the agency to estimate quantities here.

It also is not clear if the government's estimates that it intends to use in the evaluation are based on historical data or are arbitrary numbers used for evaluation purpose. In other

⁶ Even incumbents on the prior Encore contracts, like CACI, have no ability to predict quantities because they were one of many incumbents in the prior program to receive orders, and incumbents did not receive the same quantity or types of orders. If each incumbent offeror here were to propose based on the orders it received, each proposal would be based on differing quantities, and offerors would not be competing on an equal basis. In addition, such approach would not provide a level playing field for comparison between incumbents' and non-incumbents' offers.

words, it is not clear if these undisclosed estimates will even provide a reasonable basis for award. Nor is it clear how the “Problem Statement,” if at all, factors into the agency’s labor estimate for purposes of the evaluation. Because of the uncertainty and ambiguity surrounding the government’s bases for, development of, and use of estimates in the evaluation, there is nothing to assure that the evaluated price to be calculated by the agency will bear any relationship to the actual price or cost of the offeror. *See West Coast Copy, Inc; Pacific Photocopy & Res. Servs., supra, at *5; Health Servs. Int’l, Inc., Apex Envtl., supra, at *3.*

Even if the agency could claim that estimated quantities were unavailable (which it cannot due to the fact that the agency intends to apply estimates in the evaluation), the RFP does not provide any reasonable alternative to allow for a fair evaluation. GAO has allowed agencies to use hypotheticals or sample task orders to evaluate price or cost, or other bases of evaluation based on the best information available to the agency. *See, e.g., Aalco Forwarding, Inc., supra, at *7.* The agency has not provided any hypothetical to be used in the evaluation of price or cost here. The single “Problem Statement” identified, and the subfactors that follow, do not seek solutions or approaches; they only measure experience in a very general way. Offerors are not asked to come up with their best labor estimates for the agency to evaluate. Rather, the problem statement is a two-sentence general statement that seems to serve no evaluative purpose in the evaluation. And it sheds no light on the estimated labor hours the agency intends to use in the evaluation here.

For the above reasons, the agency’s failure to disclose its labor estimates is unreasonable. GAO should sustain this protest, and recommend that the agency disclose the estimates it intends to use in the evaluation.

II. The RFP Is Defective Because The Agency’s Cost/Price Evaluation Scheme Does Not Evaluate Cost Realism.

The IDIQ contract here anticipates awarding both fixed price and cost reimbursement CLINs for IT solutions. In fact, historically, a significant number of the orders placed under the Encore II program were issued on a cost reimbursement basis. This suggests that a large number of the task orders issued under Encore III also are likely to be cost reimbursement orders. Here, however, the agency’s evaluation scheme for evaluating cost/price does not take into account the realism of rates or other costs. For this reason, the solicitation is flawed.

As noted above, cost reimbursement contracts must be evaluated for cost realism. FAR 15.404-1(d). Cost realism requires that the agency independently review and evaluate specific elements of each offeror’s proposed cost estimate for the work to be performed to determine if the cost elements (1) are realistic for the work to be performed, (2) reflect a clear understanding of the requirements of the solicitation, and (3) are consistent with the unique methods of performance and materials described in the offeror’s technical approach. FAR 15.404-1(d)(1). The result of a cost realism analysis is to determine the probable cost to the government. FAR 15.404-1(d)(2).

To be sure, ascertaining probable cost to the government in an IDIQ context is challenging. This places even greater importance on the government providing reasonable quantity estimates, a sample task, or some other reasonable basis to assess the realism of rates and other costs. The agency has done none of that here. The fact that the solicitation contemplates award on an LPTA basis does not excuse the agency from making sure that proposed prices and costs are reasonable (that is, not too high) and that proposed costs are realistic. See FAR 15.404-1. The FAR does not leave discretion to the agency whether or not to perform cost realism analysis; the FAR expressly states that a “[c]ost realism analysis **shall** be performed on cost-reimbursement contracts to determine the probable costs to the government.” FAR 15.404-1(d)(2) (emphasis added). In other words, the agency cannot, by solicitation, eliminate its obligation to conduct a cost realism analysis, as DISA has attempted to do here.

The RFP states, for the cost/price evaluation, that the agency intends only to evaluate overall pricing for reasonableness and unbalanced pricing; no cost realism analysis is anticipated. RFP at 146-47. There is no mechanism in the solicitation for the agency to assess the realism of proposed labor rates and other costs to be used in the cost CLINs. The solicitation gives no consideration to the PWS elements that would likely be executed under cost CLINs, the unique methods contractors may use to accomplish them, or whether contractors’ proposed costs evidence an understanding of the PWS elements as required by the FAR. See FAR 15.404-1(d)(1). The agency has given no consideration to the fact that some PWS elements are likely to be more suitable for cost work, and other PWS elements are likely more suitable for fixed price work. These issues should be, but are not, addressed in the solicitation to allow for an adequate cost realism evaluation of work likely to be performed under cost CLINs.

The RFP’s announced cost/price evaluation scheme treats every proposed labor rate as if it is work for a fixed price CLIN, with no evaluation of any aspect of the cost CLINs. Under this evaluation scheme, the agency only intends to evaluate burdened rates for identified labor categories, treating everything as if it is fixed price work, without any distinct evaluation of the cost realism of the rates or the cost elements that comprise these rates for cost-type work.⁷ Under this evaluation scheme, the agency accepts the burdened rates proposed by offerors and bases the rest of its cost/price evaluation on them. See RFP at 138-39, 146-47. The agency does not intend to review the realism of direct rates, indirect rates, rate components, or any other cost element, as required by the FAR. See FAR 15.404-1(d)(1) (requiring agency to independently verify cost elements). The agency does not intend to verify any proposed rates through independent government estimates, historical or actual data, government audit agencies, salary surveys, or using any reasonable method to assess realism, as provided by the FAR. See FAR 15.404-1(c) (identify cost analysis techniques). The agency does not intend to consider any of the offeror’s rates relative to the work to be performed, the offeror’s technical

⁷ In response to the solicitation, offerors are only asked to provide fully burdened rates for identified labor categories, without any break-out of cost components such as direct labor, indirect labor, overhead, G&A, etc. RFP at 132; Pricing Matrix.

approaches, or its understanding of the requirements, which are other necessary components of cost realism under the FAR for cost CLINs. See FAR 15.404-1(d)(1).

To replace all of this, the agency instead intends to use a mathematical formula for “trimming” proposals on the high and low ends, without regard to the realism of an offeror’s rates or other costs. Purely mathematical approaches have regularly been rejected by GAO; reasoned evaluations are required. See *Orion Tech., Inc.; Chenega Integrated Mission Support, LLC*, B-06769 *et al.*, *supra*, at 3-6; *Jonathan Corp.; Metro Machine Corp.*, *supra*, at *7-8; *Health Serv. Int’l, Inc.; Apex Envtl, Inc.*, *supra*, at *2-4.

In sum, the agency’s failure to include any aspect of a cost realism analysis in the evaluation here is contrary to the FAR and applicable case law, and it is unreasonable given the expectations of placing the majority of orders on a cost reimbursement basis. GAO should sustain the protest on this basis and recommend that the agency revise its RFP to address cost realism in the evaluation.

III. The RFP Is Defective Because The Technical Acceptability Criteria Is Flawed.

The technical/management criteria is flawed because it is vague, fails to give sufficient detail to provide a reasonable measure of technical acceptability, is not rationally related to the performance requirements sought under the IDIQ contract, and fails to provide for an adequate cost realism analysis.

As noted above, a solicitation must enable offerors to intelligently compete, and be sufficiently free of ambiguity to allow offerors to compete on a common basis. *Global Tech. Sys.*, B-411230.2, Sept. 9, 2015, 2015 CPD ¶ 335 at 19. Thus, the agency’s description of its needs must be free from ambiguity and must describe the agency’s minimum needs accurately. *Id.*

This RFP contemplates the award of multiple contracts, with a maximum ordering value of \$17.5 billion. Yet, the technical/management criteria only evaluates an offeror’s general experience in response to 6 generic PWS requirements under 7 generic subfactors, all of which fail to provide any reasonable measure of technical acceptability for this multi-billion dollar IDIQ contract program. Each of the subfactor experience requirements are so vague and general that there is no meaningful assessment of technical acceptability, let alone any reasonable measure of experience to perform the actual requirements of the RFP. In addition, the agency has provided a vague, two-sentence “Problem Statement” that purports to be a “scenario,” RFP at 128, 143, but really only states that the government intends to build a non-descript “Enterprise/Mission Custom Software Application.” RFP at 143. The problem statement and subfactors provide no actual scenario or problem to solve, do not seek technical approaches, and do not seek any experience that is even reasonably specific to meeting the requirements. This invites unqualified offerors to compete at low prices and fails to provide any meaningful technical approach to measure technical acceptability, or for that matter, cost realism, as discussed in the sections above.

The IDIQ work sought here is incredibly complicated. The RFP has a global reach. RFP at 16-17. It anticipates 19 far-reaching performance areas that require skilled and varied approaches. *Id.* at 17-18. None of these performance areas can be reasonably measured on a pass/fail basis without clear, defined requirements in the solicitation to provide for a meaningful assessment of technical acceptability and experience. Failure of the agency to provide such defined requirements does not comport with its obligation to describe its needs with accuracy. *See Global Tech. Sys., supra.* The vague criteria included in the RFP, which only describe a few generic and nebulous areas of experience, do not provide for a meaningful technical/management evaluation since there is no basis to ferret out companies without any meaningful technical/management experience. Furthermore, the criteria provide no basis to evaluate approaches, quality, or other key indicators of whether an offeror could provide a technically sound solution in response to a future task order. The vagueness of the RFP also unfairly skews the cost/price evaluation, since unqualified companies are likely to propose unrealistically low costs, without any reasonable assessment of technical approach or cost realism.

For these reasons, GAO should sustain the protest and recommend that the agency establish technical criteria that are clearly defined, provide a reasonable measure of technical acceptability and experience, and allow for a reasoned cost realism analysis.

IV. The RFP Is Defective Because It Contains A Number Of Ambiguities.

The RFP is further defective because it contains a number of patent ambiguities.

For example, as discussed above, the solicitation is ambiguous as to the estimated quantities the agency intends to use in the cost/price evaluation, and whether those quantities are based on historical data, projected data to address the problem statement, or some other point of comparison. This information is necessary to submit intelligent offers for the reasons discussed in Section I of this protest.

In another example, the solicitation contemplates that the agency will evaluate proposals for unbalanced pricing. RFP at 147. However, it is unclear how that can be accomplished given that the agency is only seeking overall burdened rates for the base year (the option years are mathematically calculated), and the agency intends only to rank vendors by total pricing without any meaningful analysis of cost/price components in the base or option years. RFP at 138-39, 146-47.

In yet another example, there is conflict and ambiguity in the treatment of fixed price and cost reimbursement CLINs in the evaluation. On the one hand, the agency is seeking LPTA proposals, which encourages low prices, where rates will be premised on the use of fixed price orders. Yet, the agency will be eliminating the lowest priced offers. It is well-settled that for fixed price work, offerors are permitted to submit low prices. *Star Contract Servs., LLC*, B-409424, Apr. 23, 2014, 2014 CPD ¶ 133 at 6. Where an agency wishes to introduce a realism

analysis, it may only do so to evaluate risk or the understanding of the requirements. *Id.* Absent a finding of technical unacceptability, it would not be proper for the agency to eliminate proposals simply due to their low proposed prices in a fixed price context. To do so is contrary to the lawful purpose of a fixed price competition, which is encourage low prices to the government.

On the other hand, for the cost CLINs, there is a requirement to evaluate the realism of proposed costs and calculate each offeror's most probable cost measured against the offeror's technical approach, understanding of requirements, and the realism of its proposed cost elements. FAR 15.404-1(d)(1). And yet the RFP's encouragement of low prices through an LPTA scheme, coupled with the absence of any evaluation language in the RFP contemplating a realism analysis, conflicts with the FAR requirement that a cost reimbursement analysis be performed. Instead, high prices may be eliminated simply because they are high, when they actually could be the most realistic prices for the contemplated work. The agency fails to consider any of this in its evaluation scheme.

In sum, the RFP fails to recognize that fixed prices and reimbursable costs are developed in very different ways based on very different strategies. A company may want to drastically reduce its fixed price to be more competitive, but these reductions might not be realistic in a cost reimbursement setting. The RFP's confusion in failing to address how fixed and cost CLINs will be evaluated creates ambiguity in the solicitation and permits offerors to submit proposals based on different pricing strategies. The problem with this is that the RFP provides no process for the agency to assess whether offerors are submitting prices and costs on an apples-to-apples basis in order to conduct a meaningful cost/price evaluation.

For all of the bases of contradiction and confusion in the RFP, GAO should sustain the protest and recommend that the agency revise its solicitation to address the ambiguities and conflicts raised in this protest.

V. The LPTA Scheme Is Not Appropriate For The Encore III IDIQ Contract.

Finally, CACI protests that the LPTA evaluation scheme is not appropriate for the work sought here under the RFP. While an agency is in the best place to define its needs, the solicitation must reasonably reflect the agency's needs based on sound acquisition planning. See FAR Parts 7, 10. The agency's decision to select an LPTA approach is unsupportable because it is inconsistent with historical purchases, inconsistent with Department of Defense (DoD) guidance made applicable through regulation, and inconsistent with the RFP requirements here. See Exhibit 2, Coalition of Government Procurement Letter.

DoD guidance on source selection is made mandatory through DFAR 215.300. This guidance requires:

1.3.2.1 General Description. LPTA is the appropriate source selection process to apply when the product or service to be acquired has **well-defined**

requirements, minimal risk of unsuccessful contract performance, price has a dominant role in source selection and there is no value, need or interest to pay for higher performance. “Well-defined requirements” means that the technical requirements and “technical acceptability” standards are clearly understood by the Government and can be clearly articulated to Industry in the solicitation. Under LPTA, there is no evaluation benefit to an offeror for a proposal to exceed a minimum requirement; proposals are evaluated simply as either “acceptable” or “unacceptable.” Thus, there is no tangible benefit to an offeror to propose a higher priced technical approach that exceeds any minimum requirements. The LPTA process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest total evaluated price.

Exhibit 3, DoD Memorandum (adopted as regulation by DFAR 215.300) (emphasis added).

The RFP here does not include well-defined requirements and the risk of unsuccessful performance is far from minimal. The RFP includes a high-level PWS that encompasses a sophisticated set of IT services to be delivered worldwide, while the specific defined requirements to be performed will be articulated at the task order level. The “Problem Statement” identified in the evaluation criteria is vague, the subfactors seek only general experience in a few areas, and no estimated labor hours are provided. RFP at 143-44. The development of sophisticated IT solutions and performance of the 19 identified performance areas in the PWS all present significant risk of unsuccessful performance. And because this RFP is intended to serve federal agencies across the government, the impact of unsuccessful performance is huge.

Furthermore, the agency cannot reasonably take the position that price should place a predominant role in the source selection, or that there is no need or interest in paying for higher performance. The PWS performance areas do not describe work where technical value or superiority is insignificant. Moreover, the agency has never treated the work, in the past, to reflect minimal technical capability. Tellingly, of the 362 task orders issued in connection with Encore II, 91% were best value, 8% were LPTA, and 1% was performance price tradeoff. Exhibit 2, Coalition of Government Procurement Letter, at 3.

Procuring the Encore III services on an LPTA basis, with no thought to technical approaches or realistic prices or costs, is unreasonable and inconsistent with DoD guidance made applicable through the DFARS. It is also inconsistent with how the agency has procured these services in the past, and inconsistent with the RFP here which includes a PWS for valued services that pose a high risk to the government if not performed. The agency’s decision to proceed on an LPTA basis also is based on a lack of defined requirements, which further reveals that an LPTA solicitation is not appropriate here.

Because the LPTA structure of this RFP is contrary to DoD guidance, made applicable through the DFARS, and is unsupportable, GAO should sustain the protest and recommend that the agency revise its solicitation to procure the Encore III work on a best value basis.

VI. CACI Was Prejudiced By These Solicitation Defects.

CACI was prejudiced by all of the above errors. CACI has put together a proposal based on insufficient information, ambiguous requirements, and unclear and inconsistent evaluation criteria. But has CACI been provided sufficient information to intelligently compete? No. Has CACI been provided adequate information in the RFP to be evaluated fairly and on a level playing field? No. Has CACI been provided a reasonable chance for award? No. CACI has had to guess at the requirements and price its labor in a vacuum based on contradictory and confusing requirements. CACI is prejudiced by the lack of clarity in the solicitation and the other solicitation flaws. CACI would have a substantial chance for award if the agency were to fix these procurement errors.

REQUEST OR RELIEF AND DOCUMENT REQUESTS

CACI requests that GAO sustain this protest and recommend that the agency revise its solicitation to address the issues raised in this protest. CACI also request that GAO recommend that CACI be reimbursed the reasonable costs of filing and pursuing the protests, and other relief that GAO deems just and proper. CACI requests that the following documents be provided from the agency:

1. All documents reflecting the agency's decision to select LPTA as its acquisition approach.
2. All documents reflecting the agency's consideration of selecting best value as an acquisition approach.
3. All documents reflecting the agency's consideration of, and revisions to, the cost/price evaluation scheme in the solicitation.
4. All documents reflecting the agency's consideration of how to address cost and price issues in the solicitation.
5. All documents reflecting the agency's consideration of the DoD memorandum, attached hereto as Exhibit 3, and its use in the development of the solicitation.
6. All documents reflecting the development of the agency's labor estimate to be used in the evaluation of offers, including the estimate itself.
7. All documents reflecting the agency's identification and development of the "Problem Statement" in the solicitation, and its intended use in the evaluation.
8. All documents reflecting the agency's development of the technical/management criteria included in the solicitation, including the selection of and development of performance areas and subfactors.
9. All documents reflecting the agency's development of evaluation criteria for this solicitation.
10. All acquisition planning documents bearing on the development of the agency's labor estimate, requirements definition, and evaluation criteria.

Each of these document requests are relevant to the protest grounds raised herein. For purposes of this request, CACI request all written documents, including but not limited to memoranda, notes, emails, texts, and other written recordings that discuss the issues raised herein pertaining to the protested solicitation.

Respectfully submitted,



Sharon L. Larkin

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Washington, DC 200036
tel. 202.429.6287; slarkin@step toe.com

cc: Steven Francoeur (Contracting Officer), by Email

Attachments:

- Exhibit 1: Conformed RFP
- Exhibit 2: Coalition for Government Procurement Letter
- Exhibit 3: DoD Memorandum