
From: The LAB @ DOC
Subject: MMCB - Vol. 20 - \$3B DHS IT Contract with Many Complaints, Feb. 2022



Welcome to MMCB Volume 20! This Monday covers a story for a \$3B IT contract and the many challenges they faced, including spoon-fed discussions, “double counting” evaluation findings, and oral presentations.

Matter of: General Dynamics Information Technology, Inc.
File: [B-420282; B-420282.2](#)
Link: <https://www.gao.gov/products/b-420282%2Cb-420282.2#mt=e-report>
Date: January 19, 2022

Background: In order to fully understand the context of some bid protest decisions, it is helpful to know the story. We start with a summary vignette of the DHS Data Center and Cloud Optimization (DCCO) project to paint the picture, then share some highlights from the decision. The DHS Office of the Chief Information Officer (OCIO) had a requirement to recompute its Data Center 1 support and sought to advance the strategic posture of DHS by including cloud optimization within the IDIQ contract requirements. Market Research indicated that there were more than a few vendors interested in participating in the solicitation, although only a few vendors were capable. DHS OCIO also felt that this was a complex requirement, with a lot of nuances. DHS OCIO structured their solicitation in three phases, using a mixture of mandatory and advisory down-select phases. Phase 1 included a Pass/Fail factor on Facility Clearance & Level of Safeguarding. In between Phase 1 and Phase 2, the DCCO team setup a virtual reading room to house sensitive documents which gave vendors a better picture of the requirement. They also held a virtual pre-proposal conference, which was recorded and posted to SAM.gov.

Phase 2 included Corporate Technical Experience and Reference Checks (15 pages) included six mission focused evaluation questions, using confidence ratings in lieu of traditional adjectival ratings. Phase 3 included three technical evaluation factors: Staffing & Management Approach (27 pages), Technical Approach (25 pages), and Oral Presentation; and price. The oral presentation consisted of two 45-minute responses to scenario based questions with 15-minutes of interactive dialogue. The scenarios were provided to the vendors prior to the oral presentation. After each scenario presentation, the vendors were asked two challenge questions that were related to the scenario presented. For each challenge question, the vendor was provided 60 minutes to prepare, 30 minutes to present its response, and 15 minutes for Q&A.



The team received seven responses to Phase 1. Four of these were rated as Pass and moved to Phase 2. After evaluating the four Phase 2 responses, three vendors were found to be most highly rated and advised to proceed to Phase 3. The team read each proposal and then performed an on-the-spot consensus of the two written factors. Oral presentations began three weeks later. The team felt that the oral presentations were very powerful as *"they provided a lot of clarity about the proposals."* The team performed an on-the-spot consensus the day after the oral presentation. Using these techniques, the team was able to make award less than 9 months after the solicitation was released for a \$2.7B FAR 12/15.3 single-award IDIQ. Then the GAO bid protest came from the **INCUMBENT**.

The DCCO Decision – many complaints, brief conclusions, quality writing, oral presentation boundaries, and misleading discussions.

Many Complaints

It is helpful context when reading this decision to understand that GDIT (the incumbent) protested everything it could, but nothing provided a basis to sustain the protest. We cover some important takeaways but not all of the complaints and outcomes, just as the GAO does not include every conclusion in its own decision. Here are the complaints summarized below:

"GDIT protests virtually every aspect of the agency's evaluation of proposals under the non-price factors, and asserts that the agency failed to conduct meaningful discussions. As discussed below, none of GDIT's complaints provides a basis to sustain its protest...."

GDIT's protest submissions include arguments that are in addition to, and/or variations of, those discussed below. Among other things, GDIT asserts that the agency's evaluation: reflected unequal treatment; failed to identify various strengths in GDIT's proposal; failed to properly consider the quality of Perspecta's prior performance; unreasonably assessed various weaknesses in GDIT's proposal, including GDIT's failure to adequately discuss how [deleted] would affect total cost of ownership; and failed to include a best-value tradeoff. The agency provided appropriate responses to each of GDIT's multiple assertions. We have considered all of GDIT's assertions, along with the agency responses, and find no basis to sustain its protest."

Brief SSA Conclusion

It is a well-known principle, to some, that when you are operating in a best-value tradeoff environment and you find yourself in a situation where you have a higher technically-rated offeror who has a lower price than the remaining offerors in the final phase, then there is nothing to tradeoff and therefore a tradeoff analysis is not required. Referencing the table below, here is what the source selection authority (SSA) had to conclude – sticking to this principle:

"Perspecta was the highest technically ranked Offeror and the lowest priced Offeror. . . . I see no benefit the Government would receive in awarding to a higher priced Offeror who was ranked lower technically. . . . In summary . . . it is my independent decision that Perspecta's proposal offers the best overall value to the Government."

	Perspecta	GDIT
(1) Facility Clearance	Pass	Pass
(2) Experience	High Confidence	High Confidence
(3) Staffing/Management	High Confidence	High Confidence
(4) Technical Approach	High Confidence	Some Confidence
(5) Oral Presentations	Some Confidence	Some Confidence
(6) Price	\$940,353,858	\$986,333,415

Remember – even where the confidence ratings are the same for some of the factors, that does not mean they are equal, holistically, or even considered equal for that factor. GDIT could have been determined higher technically rated in any of the factors, or all of these (except factor 4) and that could have gone into the best-value determination. For this procurement, that was not the case. The focus is on the substance of the evaluation findings, those areas that were found and documented to increase or decrease confidence.

It is the Offeror's responsibility to submit a well-written proposal, not the Government's job to decipher it!

We have seen this principle quite a few times, but it is important to share again. It is the offeror's responsibility to submit a detailed proposal to allow for a meaningful review. The government is not required to read disparate sections of proposals and try to connect dots and go to extraneous lengths to ensure they might have covered an element of a factor in some random sentence in a written document or as part of an oral presentation.

"Finally, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information, which clearly demonstrates the proposal's merits and allows a meaningful review by the agency. See, e.g., Nexagen Networks, Inc., B-416947, B-416947.2, Jan. 11, 2019, 2019 CPD ¶ 57 at 6. Consistent with the discussion above, the record reasonably supports the agency's assessment that various portions of GDIT's FPR were conflicting, confusing and/or ambiguous. As noted above, it was GDIT's responsibility to submit a well-written proposal that clearly demonstrated the proposal's merits and allowed the agency to perform a meaningful review; based on our review of the record here, we find that the agency reasonably concluded GDIT did not. Accordingly, GDIT's complaints regarding the agency's evaluation of proposals under the technical approach evaluation factor are denied.

Oral Presentations - What is Fair Game?

Among its complaints, GDIT challenged "*double counting*," of its proposal's flaws. Moreover, they complained that some of the critiques from their oral presentation factor (5), namely their inability to properly articulate complex technical aspects via questions during the oral presentation, were double counting critiques already made to the slides that accompanied the oral presentation or to the written technical factor (4). Additionally, GDIT thought that their final proposal revision (FPR) responses addressed concerns from the oral presentation, but oral presentation was a separate evaluation factor that also assessed the quality of the oral presentation. The fact that the Government noted flaws in the approach from the slides, the written technical submission, and from GDIT's responses to questions did not constitute impermissible double counting. The excerpt below regarding oral presentations is helpful as it reminds us of the power of our subjectivity and what we can rightfully consider in an oral presentation.

Moreover In reviewing a protest challenging the agency's evaluation of oral presentations, our Office will not substitute our judgment for that of the agency. See, e.g., J5 Systems, Inc., B-406800, Aug. 31, 2012, 2012 CPD ¶ 252 at 6; Naiad Inflatables of Newport, B-405221, Sept. 19, 2011, 2012 CPD ¶ 37

at 6. Further, an agency's evaluation is dependent on the information presented by the offeror. *Id.* Finally, an agency is not precluded from considering an element of a proposal under more than one evaluation criterion where the element is relevant and reasonably related to each criterion under which it is considered. See, e.g., *Mission1st Grp., Inc.*, B-419369.2, Jan. 25, 2021, 2021 CPD ¶ 65 at 12; *Infrared Techs. Corp.*, B-282912, Sept. 2, 1999, 99-2 CPD ¶ 41 at 5-6 n.2.

Do you have to spoon-feed discussions?

The government decided it required discussions with all offerors in the final phase, requiring the submission of FPRs. GDIT claimed this process was less than meaningful and the agency “neglected to advise GDIT whether any of these areas were significant weaknesses (or even relative weaknesses) to allow GDIT to better focus in its proposal.” The agency claimed the discussions were proper and they meaningfully directed GDIT’s attention to the correct areas of the proposal.

*Discussions, when conducted, must identify proposal deficiencies and significant weaknesses, and should discuss other aspects that reasonably could be addressed in order to materially enhance the offeror's potential for receiving award. FAR 15.306(d)(3). The scope and extent of discussions are a matter of contracting officer judgment. Id. When an agency engages in discussions with an offeror, the discussions must be meaningful; that is, they must reasonably lead an offeror into the areas of its proposal that require amplification or revision. See, e.g., *Torrent Techs., Inc.*, B-419326, B-419326.2, Jan. 19, 2021, 2021 CPD ¶ 29 at 12; *Metro Machine Corp.*, B-295744, B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 19. However, this requirement does not obligate an agency to spoon-feed an offeror nor to, effectively, rewrite the offeror's proposal by suggesting a specific approach. Id. Here, we find no merit in GDIT's assertions that the agency was obligated to label each of its discussion questions as to the level of the agency's concern. Where an agency is assessing an offeror's understanding of the requirements, identifying the area of a proposal that creates concern is more than sufficient; indeed, in assessing an offeror's relative understanding, “spoon-feeding” an offeror by suggesting a particular response is neither required nor appropriate. While the fact that GDIT's responses to the agency's discussion questions did not fully address and/or eliminate the agency's concerns may reflect on GDIT's understanding of the solicitation requirements, it does not establish that the discussions were less than meaningful. GDIT's assertions regarding the agency's discussions are without merit.*

Hope you enjoyed the read and found some valuable takeaways from this volume!

This volume was originally authored in February 2022 and refreshed in March 2025.

*Disclaimer: The information contained in this MMCB is merely an opinion of the author and does not constitute formal legal or policy guidance of any kind.

