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Comptroller General  
of the United States

United States Government Accountability Office  
Washington, DC 20548

# Decision

**Matter of:** Symplicity Corporation

**File:** B-297060

**Date:** November 8, 2005

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Ariel M. Friedler, Esq., for the protester.  
R. Alan Miller, Esq., James S. Green, Esq., Kathie Ann Whipple, Esq., and Mark A. Robbins, Esq., Office of Personnel Management, for the agency.  
Sharon L. Larkin, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Agency's selection of technically superior, higher priced proposal is reasonable, where record supports the agency's assessment of weaknesses in protester's proposal and determination that the lower risk associated with the technically superior proposal was worth the additional price.
  2. Discussions were meaningful and not "too vague," where agency raised weaknesses with the protester in sufficient detail to lead the firm into the areas of its proposal that required improvement or further clarification.
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## DECISION

Symplicity Corporation protests the award of a contract to TMP Worldwide, Inc. (d/b/a Monster Government Solutions) issued by the Office of Personnel Management (OPM) under request for proposals (RFP) No. OPM-RFP-04-00032MLJ to operate USAJOBS, an on-line federal employment information system. Symplicity challenges the evaluation of its proposal and the source selection decision.<sup>1</sup>

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<sup>1</sup> The protester was not represented by counsel that could be admitted to a protective order and, therefore, did not have access to source selection sensitive and proprietary information. Accordingly, our discussion in this decision is necessarily general in order to avoid disclosure of this information. Our conclusions, however, are based on our review of the entire record.

We deny the protest.

## BACKGROUND

USAJOBS is an on-line employment information system that provides federal job seekers with searchable access to federal job vacancy listings and job announcements, on-line resume development, and links to information about the federal employment process. RFP, Statement of Work (SOW), § 1.3. It is the core of the “Recruitment One-Stop” project, an important e-government initiative of the President’s management agenda, for which OPM is the “managing partner.” The original USAJOBS system was a federal government product that was developed, operated, and maintained by OPM employees. In January of 2003, OPM conducted a competition among private sector vendors and selected TMP for award of a contract to develop, operate, and maintain an enhanced USAJOBS system.<sup>2</sup> This procurement is for the follow-on contract to the prior award.

The RFP sought a contractor to provide a USAJOBS system with the following capabilities:

- (1) Searchable access to Federal job vacancy listing and job announcements within the USAJOBS website, StudentJobs website, through USAJOBS by Phone, and on individual agency recruiting sites and pages;
- (2) E-mail notice of job matching;
- (3) On-line resume development, storage, and submission integrated with the full range of automated staffing and hiring systems operating across the Federal Government;
- (4) On-line application status tracking integrated with agency side automated staffing and hiring tools;
- (5) Employer services for job posting, job announcement creation, and resume database mining accessible via the USAJOBS user interface or through integration; and
- (6) Content and links to information about the Federal employment process and other Government websites.

Id. § 1.4.

The solicitation contemplated award of a fixed-price contract for a base year with four 1-year options. The evaluation was to be conducted using Federal Acquisition Regulation (FAR) Part 12 for commercial items. Award was to be made on a best-value basis, considering the following factors: (1) overall technical capability (including past performance), (2) pricing, and (3) small business subcontracting plan. Technical capability was said to be “the paramount factor,” but the other

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<sup>2</sup> We sustained Symplicity’s protest of the 2003 award to TMP. See Symplicity Corp., B-291902, Apr. 29, 2003, 2003 CPD ¶ 89.

factors were “also important to the overall contract award decision.” The technical capability factor included four subfactors, listed in descending order of importance: (1) soundness of proposed technical approach and methodology for accomplishing the defined tasks and meeting the performance standards, (2) management plan and capabilities, (3) past performance, and (4) value of enhancements proposed for USAJOBS. RFP, Art. A.25. The RFP incorporated by reference FAR § 52.219-9 with Alternate II (Oct. 2001) for the evaluation of the small business subcontracting plan. RFP, Art. A.19.

Symplicity (a small business concern) and TMP (a large business) submitted proposals in response to the RFP that were found to be in the competitive range.<sup>3</sup> During the evaluation, technical proposals were evaluated against a total of 406 elements of the SOW that were categorized under each of the four technical capability subfactors. Price was evaluated for realism and reasonableness. Based on the initial evaluation, the agency issued written discussion questions in the form of “Interrogatory Letters” to both offerors concerning technical and pricing weaknesses and deficiencies in their proposals, and both offerors were invited to submit proposal revisions.

In the final evaluation, TMP’s offer was found to be technically superior to Symplicity’s under the most important factor—technical capability. In this regard, TMP’s proposal was rated acceptable under two of the four subfactors (soundness of proposed technical approach, and management plan and capabilities), and exceptional under the other two subfactors (past performance and value of enhancements) based on identified strengths in its technical approach.

Symplicity’s proposal, on the other hand, was found to be only acceptable under all four subfactors. Although the agency noted a few “exceptional” elements of Symplicity’s proposal (such as its proposed “tools for managing job search results and applications, robust resume builder and their web-based dialogue functionality”), the agency also identified a number of “ongoing significant weaknesses in several key areas.” These weaknesses included a “lack of pre-formatted reporting at the job level for the OPM Program Office and recruiters; approach for providing start-up and ongoing training; the approach and timeline to system transition at the end of the contract term; and lack of delivery of jobs data to America’s Job Bank.” Agency Report (AR), Tab 12, Source Selection Decision, at 6.

Under the price factor, TMP’s proposed price of \$27,150,257 was found to be reasonable and realistic for the work proposed, and was consistent with the agency’s current contract costs. In contrast, Symplicity’s proposed price of \$13,678,812 was determined to be “unrealistically low in the sense that adequate resources have not

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<sup>3</sup> One other offeror submitted a proposal, but was excluded from the competitive range.

been allotted to assure that implementation of this large and complex project will fully meet [OPM's] requirements." The agency identified several "under-priced" items, including deliverables relating to pre-formatted reporting, delivery of jobs data to America's Job Bank, system transition, training, and other direct costs. The agency concluded that Symplicity's pricing "increases both performance and cost risk" and demonstrated to the agency that Symplicity "does not fully understand all of the technical requirements of USAJOBS." Id. at 8, 13. Accordingly, the agency found that Symplicity's proposal presented a "moderate risk" to the government. Id. at 13.

In sum, the agency determined that Symplicity's lower price was not worth the additional risk to the government. As the source selection authority stated in the source selection decision:

Moderate risk for this type of requirement is unacceptable to the Government. Since USAJOBS is the United States Government's official job site and the vehicle by which all Executive Branch agencies in the Federal Government provide statutory mandated public notice of employment opportunities, failure is not an option since hiring activities for the Government would grind to a halt.

Id. Based on TMP's superior technical proposal, reasonable price, and acceptable small business subcontracting plan (which was "approved" by OPM's Small Business Technical Advocate and contracting officer), OPM selected TMP for award. This protest followed.

## DISCUSSION

Symplicity raises numerous challenges to the evaluation of its proposal and the award decision. It contends that its proposal was misevaluated under the evaluation factors, that the cost/technical tradeoff was flawed, and that discussions were inadequate.<sup>4</sup>

Our Office reviews challenges to an agency's evaluation of proposals only to determine whether the agency acted reasonably and in accord with the solicitation's evaluation criteria and applicable procurement statutes and regulations. Manassas Travel, Inc., B-294867.3, May 3, 2005, 2005 CPD ¶ 113 at 2-3. A protester's mere

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<sup>4</sup> Symplicity also complains about the adequacy of its debriefing. Our Office will not review a protester's contention that the debriefing it received was inadequate because the adequacy of a debriefing is a procedural matter concerning an agency's actions after award, which are unrelated to the validity of the award itself. OMV Med., Inc.; Saratoga Med. Ctr., Inc., B-281388 et al., Feb. 3, 1999, 99-1 CPD ¶ 53 at 9 n.3.

disagreement with the agency's judgment is not sufficient to establish that an agency acted unreasonably. Entz Aerodyne, Inc., B-293531, Mar. 9, 2004, 2004 CPD ¶ 70 at 3.

Symlicity first argues that OPM misevaluated the small business subcontracting plan factor. It complains that it was not given "maximum credit" and that TMP was not reasonably evaluated. However, FAR § 52.219-9, which was incorporated into this solicitation and provides the framework for the evaluation under this factor, specifically states that "[t]his clause does not apply to small business concerns."<sup>5</sup> The clause requires only that a large business include in its proposal a subcontracting plan and that the plan be negotiated with the contracting officer and made part of the resulting contract. The record here shows that OPM "approved" TMP's proposed plan, which was signed by the contracting officer, thus demonstrating that the agency considered TMP's plan and complied with the requirements of the RFP.

Symlicity next challenges specific weaknesses identified in its proposal.<sup>6</sup> It asserts that the agency unreasonably assessed weaknesses for its proposed training, lack of pre-formatted reports, America's Job Bank, and job announcement printing.<sup>7</sup> All of these issues were raised with Symlicity during discussions. See AR, Tab 8A, Symlicity Interrogatory Letter, Technical Question Nos. 7, 9, 10 and Pricing Question No. 10. Symlicity asserts that it fully addressed the weaknesses, in its proposal and responses to the agency's interrogatories, and that OPM failed to credit its responses. However, the record supports the reasonableness of the agency's conclusion that Symlicity had not adequately addressed the agency's concerns, so that the weaknesses were properly found to remain.

For example, with regard to Symlicity's approach to training, the agency found the proposal "inadequate." The proposal included only 2 days of training in Washington, D.C., which OPM found "unacceptable" because the federal users (of which there are

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<sup>5</sup> Although Symlicity contends that the agency should have evaluated "small disadvantaged" business participation, FAR § 52.219-9, Alternate II (which did require that the required small business plan address small disadvantaged business participation), was not applicable to the evaluation of Symlicity's proposal because the firm was a small business concern.

<sup>6</sup> Symlicity challenged a weakness assessed for its transition plan, but failed to respond in its comments to the agency's arguments in the agency report, so that we view this protest ground as abandoned. Sayres & Assocs. Corp., B-295946, B-295946.2, Apr. 25, 2005, 2005 CPD ¶ 90 at 4 n.4.

<sup>7</sup> Symlicity also asserts that the agency found "dozens of perceived weaknesses" from the firm's "screen shots," and complains that the evaluation of these screen shots was unreasonable. Protest at 11. However, we find no evidence of improper evaluation of the screen shots in the record.

over 2,000) are geographically dispersed around the world and many agencies would not be able to send participants to Washington for training. OPM found that Symplicity's alternative of providing on-line manuals and tutorials, while useful, was not "wholly satisfactory in meeting the needs of this group," which the agency believed required more interactive support. Symplicity also failed to adequately explain its plan for providing ongoing training sessions, or for updating its videotape content to accommodate new system features (which are implemented on a regular basis) or new users (who are added on a daily basis). AR at 8-9; Tab 11, Final Technical Evaluation Report, at 17. Although the agency asked Symplicity to further describe its training approach during discussions, Symplicity did not explain its approach sufficiently to alleviate the agency's concerns. Based on this record, we find the agency's evaluation of Symplicity's proposed training to be reasonable.<sup>8</sup>

Another weakness found in Symplicity's technical proposal was a lack of pre-formatted reports as required by SOW § 3.1.3.3, which provided that "[t]he system must allow properly identified and authenticated users to access a variety of established reports and ad hoc reports regarding system usage statistics, including statistics for individual job records." When asked during discussions what reports it would provide in response to SOW § 3.1.3.3, Symplicity responded with a list of web usage statistic reports that provided such information as the number of hits, most viewed pages, and host lists; but for statistics regarding individual job records, the firm stated only that "Symplicity will provide application specific reporting tools for authorized users to perform ad hoc reports against any data managed within the system." AR, Tab 10A, Symplicity Interrogatory Responses, Technical Question No. 7. From this, the agency concluded that, for job record reports, Symplicity proposed only to provide agency users with a reporting engine to allow OPM to build reports, thus requiring the users themselves to build the reports.<sup>9</sup> The agency

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<sup>8</sup> Symplicity also asserts that its proposed training is "extremely similar" to TMP's approach. Comments at 2. However, our review of the record confirms that TMP's approach to training is more comprehensive than Symplicity's and includes features not offered by Symplicity that the agency reasonably found to be advantageous.

<sup>9</sup> Symplicity points to an interrogatory response to a price question that identifies prepared reports, and asserts that these reports are also responsive to SOW requirement § 3.1.3.3 and the technical question that raised this issue. Protest at 8-9; see AR, Tab 10A, Symplicity Interrogatory Responses, Price Question No. 9. However, Symplicity did not make clear in its interrogatory responses that its response to a price question either pertained to SOW § 3.1.3.3 or should be considered in response to a technical question specifically asking about this requirement. Moreover, the technical and price evaluations were performed by separate teams within the agency. An offeror bears the burden of submitting an adequately written proposal, and contracting agencies evaluating one section of a proposal are not obligated to go in search of needed information which the offeror  
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explains that it “does not have the staff resources required to support ongoing ad hoc queries of this nature” and, therefore, needs “canned” reports to obtain regular access to job database information, such as the “most posted job series or agency with the largest number of job listings.” AR, Tab 11, Final Technical Evaluation Report, at 17. We find, from this record, that the agency reasonably assigned a weakness to Symplicity’s proposal in this area.

Next, Symplicity complains that the agency incorrectly assessed a weakness for failing to integrate America’s Job Bank into its proposed system. In the regard, SOW § 3.1.4.5 required that the offeror “must also provide the Federal Jobs Database to America’s Job Bank.” Symplicity was asked during discussions, “How does Symplicity plan to specifically address the requirements in SOW [§] 3.1.4 related to . . . providing the USAJOBS database to America’s Job Bank?,” and Symplicity’s response did not address this item at all. See AR, Tab 8.A., Symplicity Interrogatory Responses, Technical Question No. 10. Although Symplicity asserts that its proposal adequately explains its integration approach, we have reviewed Symplicity’s proposal and the pages cited by the protester do not address the integration of America’s Job Bank. Accordingly, we find no error in the agency’s evaluation of this aspect of Symplicity’s proposal.

Symplicity also challenges the agency’s conclusion that the costs associated with job announcement printing and distribution were not apparent from Symplicity’s proposal. Symplicity asserts that it included these costs in a general line item for “supplies,” which it listed in response to an interrogatory on this issue. See AR, Tab 10A, Symplicity Interrogatory Responses, Price Question No. 10. However, Symplicity’s interrogatory response did not make clear that printing and distribution were included in this general line item for “supplies,” and, therefore, based on our review of the record, the agency could reasonably question whether these costs were included in Symplicity’s proposal.<sup>10</sup>

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(...continued)

has omitted or failed adequately to represent. Sam Facility Mgmt., Inc., B-292237, July 22, 2003, 2003 CPD ¶ 147 at 5.

<sup>10</sup> To the extent the Symplicity also complains that the agency “used Symplicity’s low price as an indication that the proposal was lacking in technical merit or had a lack of understanding of the requirements,” Protest at 10, we find that the record supports the agency’s conclusions. In this regard, the source selection decision identifies a number of deliverables, including job announcement printing discussed above, that the agency believed were under-priced, and the agency reasonably determined that these, and other aspects of Symplicity’s price proposal, “indicate a potential failure to understand the requirement in its totality.” AR, Tab 12, Source Selection Decision, at 8. The RFP noted that the agency would consider “how well the proposal shows an understanding of these tasks” as part of its evaluation of the technical capability factor. RFP, Art. A.25.

Symlicity also asserts that the agency failed to apply the price evaluation adjustment for small disadvantaged business, in accordance with FAR § 19.11, when performing the cost evaluation. However, the statutory authority for this preference expired in 2004 for civilian agencies and properly was not applied to this evaluation. AR, Tab 16, Memorandum for Civilian Agencies from Civilian Agency Acquisition Council (Dec. 27, 2004), at 1.

Symlicity challenges OPM's evaluation of its "proposed business model," complaining that it did not receive credit in the technical and price evaluation for the software license that it offered to provide to OPM, which was a "perpetual license to use the source code and related documentation" created by Symlicity. Protest at 10. Symlicity asserts that this was more advantageous than what is currently being provided by TMP under its contract in that TMP has retained proprietary rights in the software for the current system. However, the licensing terms under which TMP provided software under its prior contract are irrelevant to what the offerors proposed here. In this regard, the RFP required that OPM receive unlimited rights to data unless the firm asserts limited or restricted rights in accordance with FAR § 52.227.14, Rights in Data--General (June 1987), see RFP, Art. A.19, and neither proposal takes exception to this clause. The agency also found that Symlicity's "perpetual license" merely satisfied the requirements of the RFP and did not provide a desired benefit to the government. Although Symlicity disagrees with this assessment, it has not shown it to be unreasonable.

Symlicity also complains that discussions were not meaningful and were "too vague." Contracting agencies have wide discretion in determining the nature and scope of discussions, which our Office will not question unless it is clearly shown to be without a rational basis. PRB Assocs., Inc., B-277994, B-277994.2, Dec. 18, 1997, 98-1 CPD ¶ 13 at 6. Although discussions must be "meaningful," that is, sufficiently detailed so as to lead an offeror into areas of its proposal requiring amplification or revision, an agency is not required to "spoon feed" an offeror as to each and every item that must be revised to improve their proposal or to achieve the maximum score, Uniband, Inc., B-289305, Feb. 8, 2002, 2002 CPD ¶ 51 at 11, or hold successive rounds of discussions until all proposal defects have been corrected. Metro Mach. Corp., B-295744, B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 19.

Here, Symlicity identifies 16 areas where it contends discussions were inadequate. The record shows, however, that OPM held discussions in 14 of the areas (in some cases raising the issue in multiple discussion questions), and that the questions were sufficiently detailed to lead Symlicity into the areas of its proposal that required improvement or further clarification. One other area where Symlicity asserts discussions were required, past performance, was not found by the agency to be a significant weakness or deficiency, and Symlicity does not identify any adverse past performance for which it was not provided an opportunity to respond; as such, discussions were not required with regard to Symlicity's past performance. See FAR § 15.306(d)(3). Symlicity also asserts that discussions should have been held with regard to its moderate risk rating, but although risk was not specifically raised



during discussions, most, if not all, of the areas of weakness that led to the moderate risk rating were raised in interrogatories directed to Symplicity. Based on our review of the record, we find that discussions were meaningful.

Finally, Symplicity challenges OPM's cost/technical tradeoff and complains that the agency "does not have adequate documentation to support its selection decision." Protest at 10. However, as discussed above, the evaluation record is well documented and shows that the agency made a reasonable determination, in accordance with the evaluation criteria, that TMP's higher technically rated proposal was worth the additional cost to the government.<sup>11</sup> Specifically noting the weaknesses in Symplicity's technical and price proposal, the source selection authority determined that the additional risk presented by Symplicity's proposal was "unacceptable" and could potentially "grind to a halt" the government's federal hiring activities if the USAJOBS website failed. AR, Tab 12, Source Selection Decision, at 13. Given the importance of USAJOBS as a federal hiring vehicle, we find that OPM's selection of the lower risk, technically superior offeror at a price premium was reasonable.

The protest is denied.

Anthony H. Gamboa  
General Counsel

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<sup>11</sup> Contrary to Symplicity's argument, the agency's selection of the higher priced offer did not render price irrelevant in the evaluation. As the record confirms, OPM took price into account in accordance with its relative importance in the evaluation scheme.