

## **OFFERORS-DON'T INTRODUCE NEW WEAKNESSES IN PROPOSALS AFTER DISCUSSIONS**

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In a recent bid protest, the Army Corps of Engineers (“Corps”) identified and notified an offeror of 26 weaknesses in its proposal during discussions. The offeror made extensive revisions in its Final Proposal Revisions, correcting many weaknesses, but introducing seven new weaknesses and causing a loss of the procurement. *SigNet Tech., Inc.*, B-417335, May 28, 2019. The protest and result stand for the care that offerors must take to address only identified weaknesses, and not introduce *new* weaknesses after discussions.

SigNet protested a task order for the installation of a surveillance system in Kabul Afghanistan. SigNet’s proposal was ultimately rated only “marginal” against the winner’s “good” technical rating. The Government Accountability Office (“GAO”) noted that discussions must be meaningful and sufficiently detailed so as to lead an offeror into areas of its proposal requiring amplification or revision in a manner to materially enhance the offeror’s potential for receiving award.

The Corps issued a detailed letter to SigNet identifying 22 weaknesses in its technical proposal plus four significant weaknesses. The Corps also conducted oral discussion and addressed the weaknesses. In making its Final Proposal Revisions, SigNet adequately addressed 15 of the 22 weaknesses and all four significant weaknesses. However, the Corps found that SigNet had introduced six additional weaknesses and one new significant weakness in its Final Proposal Revision. SigNet’s argument that the conduct of the discussions were inadequate was without merit—SigNet had caused the problem itself by creating new areas of weakness and significant weakness. Although unstated in the decision, SigNet had apparently changed areas not found to be weaknesses in its initial proposal. This caused the loss of the procurement and the protest.

The Takeaway. In any Final Proposal Revision, it is dangerous to make significant technical changes to areas that the agency did not identify in the discussions. You run the risk of introducing new weaknesses, just as SigNet did. Only identified weaknesses should be corrected.

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