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**United States Government Accountability Office  
Washington, DC 20548**

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## Decision

**Matter of:** Science Applications International Corporation

**File:** B-405718; B-405718.2

**Date:** December 21, 2011

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James J. McCullough, Esq., and Brian M. Stanford, Esq., Fried, Frank, Harris, Shriver & Jacobson LLP, for the protester.

Brian A. Bannon, Esq., and David B. Dempsey, Esq., Blank Rome LLP, and Jeffery M. Chiow, Esq., Rogers Joseph O'Donnell, for MacAulay-Brown, Inc., the intervenor. Jason R. Smith, Esq. and Maj. David Gilkes, Department of the Air Force, for the agency.

Pedro E. Briones, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest that an awardee's proposal of the protester's incumbent personnel reflected an organizational conflict of interest is denied where the contracting officer found that the awardee's proposal was not based upon access to nonpublic information as part of the awardee's performance of a government contract.
  2. Protest that an agency unreasonably evaluated the protester's and awardee's technical proposals is denied, where the record shows that, consistent with the identified evaluation criteria, the agency found qualitative differences in the firms' proposed staffing levels.
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### DECISION

Science Applications International Corporation (SAIC), of McLean, Virginia, protests the issuance of a task order to MacAulay-Brown, Inc., (MBI) of Dayton, Ohio, under request for proposals (RFP) No. FA0021-11-R-0007, issued by the Department of the Air Force for intelligence processing, exploitation, and dissemination (PED) support. SAIC argues that the Air Force failed to reasonably consider that MBI may have an organizational conflict of interest (OCI) and misevaluated the firms' technical proposals.

We deny the protest.

## BACKGROUND

The RFP, which was issued to contract holders under the General Services Administration's Alliant Government-Wide Acquisition Contract, sought the services of a single contractor for intelligence PED support for the Air Force Special Operations Command (AFSOC) headquarters at Hurlburt Field, Florida. RFP at 1. The RFP provided for the issuance of a task order with fixed-price and cost reimbursement line items for a base year and 2 option years. Id. at 1-2.

A detailed performance work statement (PWS) was included that described the required services. Among other things, the contractor was required to provide experienced, certified, mission-ready PED personnel, as well as certification training, data management, network support, and relevant reports.<sup>1</sup> See PWS at 3-7, 16-19. Offerors were also informed that the contractor must provide continuous PED support, 24 hours per day, 7 days per week, and 365 days per year. In this regard, offerors were informed that the contractor was required to provide a minimum of 125 full time equivalents (FTE) providing PED support services on the task order start date and maintain a stable workforce, as well as an active training, recruitment, and retention program.<sup>2</sup> Id. at 3, 14. The PWS identified the agency's estimated level of effort as being 187 FTEs and stated that the agency sought a mix of experience of junior, journeyman, and senior level support. Id. at 4. In this regard, offerors were informed that the agency's estimated level of effort should not be viewed as "any sort of recommendation," and that it was the offeror's responsibility to independently determine the labor categories and level of effort required to perform and to provide the best value to the agency.<sup>3</sup> Id. at 3; see also RFP, Questions/Answers, at 5.

Offerors were informed that award would be made on a best value basis considering the following factors: technical capability and management approach; past performance; and cost/price. RFP at 4-5. The technical capability/management approach factor was more important than the past performance factor, and the past performance factor was more important than cost/price. The non-cost/price factors were, when combined, significantly more important than the cost/price factor.

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<sup>1</sup> The contractor must also install and administer, among other things, a multi-intelligence analysis and archive system, MAAS®, developed and owned by the incumbent subcontractor. PWS at 6-7; see Supp. Agency Report (AR) at 12.

<sup>2</sup> The agency explains that AFSOC requires 55 PED analysts at all times and that the contractor must provide at least 125 FTEs in this regard to cover analysts' off-duty time. See Contracting Officer's (CO) Statement at 1-2.

<sup>3</sup> Offerors were also informed that 187 FTEs was the agency's best estimate and was "a good number to follow, [with] minor fluctuations when vacancies occur." RFP, Questions/Answers, at 5.

Id. at 5. The RFP also stated that the agency would base its award decision on an integrated assessment of proposals against all evaluation criteria and that award may be made to a higher-rated, higher-priced offeror. Id. at 4. The RFP instructed offerors to submit separate technical capability and management approach (hereinafter, technical); past performance; and cost/price proposals. See id. at 3.

Technical proposals were required to describe the offeror’s understanding of the performance requirements and service delivery approach. See id. Offerors were instructed to demonstrate an ability to successfully perform the task order requirements. In this regard, offerors were required to explain their plan for obtaining and retaining an appropriate number of personnel with proper security clearances and training, including the proper mix of journeymen and senior personnel.<sup>4</sup> Id. Offerors were also required to explain any planned subcontracting arrangement and company relationships, and clearly identify the portion of effort to be performed by each contractor. See id. The RFP stated that the agency would evaluate a technical proposal’s strengths, inadequacies, or deficiencies and assign ratings of exceptional, acceptable, marginal, or unacceptable.<sup>5</sup> See RFP at 5-6.

The Air Force received proposals from four offerors, including SAIC (the incumbent contractor) and MBI, which were evaluated by the agency’s technical evaluation team (TET). CO Statement at 3-5. SAIC’s and MBI’s proposals were evaluated as follows:

	<b>SAIC</b>	<b>MBI</b>
Technical capability/mgmt. approach	Marginal	Exceptional
Past performance	Exceptional	Exceptional
Cost/Price	\$56,348,294	\$59,965,796

AR, Tab 12, Source Selection Decision. The agency’s adjectival ratings were supported by narratives that identified strengths and “inadequacies” in each

<sup>4</sup> Cost/Price proposals were also required to address the offeror’s technical approach, skill mix and hours, and hourly rates, among other things. RFP at 4; see also Schedule; RFP, attach. 5, Cost Proposal Workbook. SAIC does not challenge the agency’s cost/price evaluation.

<sup>5</sup> As relevant here, an exceptional rating reflected a proposal that exceeds specified minimum performance or capability requirements in a way beneficial to the government and that has one or more strengths and no deficiencies; a marginal rating reflected a proposal that did not clearly meet some specified minimum performance or capability requirements, but that any such uncertainty was correctable. See RFP at 6.

proposal. No deficiencies were noted in either firm's technical proposal. See id. at 5-7; see also, e.g., AR, Tab 22, SAIC Technical Capability/Management Approach Evaluation Worksheets, at 3-7.

SAIC's marginal rating under the technical capability/management approach factor reflected the agency's judgment that, although SAIC's proposal presented a number of strengths,<sup>6</sup> it included a number of inadequacies. See id., Tab 22, SAIC Technical Capability/Management Approach Evaluation Worksheets, at 3-7. The evaluators identified as an inadequacy SAIC's proposal to reduce, through the development of new [DELETED] its personnel level from [DELETED] FTEs at the start of the contract to [DELETED] FTEs (including [DELETED] the number of full motion video analysts and multi-source analysts) during the task order's 3-year performance period. See id. at 4. The TET also identified as inadequacies that, although SAIC had provided exceptional candidates in the past, the firm had not broken out the experience levels for the junior, journeyman, and senior level support proposed for this task order. Id. at 4, 7. Moreover, the TET identified as inadequacies that SAIC proposed to decrease senior level support in the option years and the actual level of experience required for journeymen and senior personnel. Id. The TET concluded that these reductions would increase risk to deployed teams and to product development timelines, and would also reduce flexibility. See id. at 3, 7.

MBI's excellent rating under the technical capability/management approach factor reflected the agency's judgment that MBI's proposal presented a number of strengths and few inadequacies. See id., Tab 16, MBI Technical Capability/Management Approach Evaluation Worksheets, at 2-7. In this regard, the evaluators noted that MBI had a superb, well thought-out plan to identify, recruit, and retain the current workforce, including attractive incentive packages; verbal agreements from many incumbents; and an employee retention rate that exceeds industry averages. Id. at 3, 6. The evaluators assessed as inadequacies the experience level of certain MBI senior staff and the risk that MBI may not be able to recruit incumbent personnel. Id. at 4, 7.

The CO, who was the source selection authority (SSA) for this procurement, agreed with the TET's evaluation judgments. See id., Tab 12, Source Selection Decision, at 5-7. In particular, the CO expressed concern that SAIC's proposed reduction in personnel was based upon [DELETED] that had not yet been developed and that these decreases would begin 6 months into task order performance regardless of

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<sup>6</sup> SAIC's assessed strengths included an excellent, experienced management team; numerous accolades; a complete understanding of the requirements; and current staff that exceeded PWS requirements. See AR, Tab 22, SAIC Technical/Past Performance Evaluation Worksheets, at 3-6.

whether SAIC had developed [DELETED] or identified efficiencies. See id. at 7. In contrast, he found MBI's higher number of proposed personnel to be in line with the government's estimate. Id. at 6. The CO noted SAIC's explanation for how it could reduce personnel, and concluded that SAIC's proposed reductions could not be sustained in the long term. See id. at 7. In this respect, he concluded that SAIC's proposed reduction in staffing "could lead to safety issues for deployed teams, possible loss of life, and mission failure." Id. He concluded that, although SAIC had the lowest evaluated cost/price, SAIC's technical proposal placed an unacceptable risk on the government. Id. at 14. Accordingly, the CO determined that MBI's higher-rated, higher-priced proposal offered the best value to the government. Id. at 14-15.

The task order was issued to MBI, and this protest followed.

## DISCUSSION

SAIC broadly challenges the agency's technical evaluation and selection decision and contends that MBI had access to competitively useful, proprietary SAIC personnel data, which gave the awardee a competitive advantage.<sup>7</sup>

### Organizational Conflict of Interest

SAIC alleges that MBI gained an unfair competitive advantage by obtaining the names, email addresses, and telephone numbers of SAIC's incumbent personnel by accessing internal agency records through MBI's performance of other AFSOC contracts. See Supp. Protest at 2-4; Protester's Supp. Comments at 3-7. The protester asserts that the personnel data is competitively useful, SAIC proprietary information and that SAIC's PED staff is the only source of currently certified, mission-ready personnel available to perform the task order requirements. See Protest at 18-19; Supp. Protest at 2, 4; Protester's 2nd Supp. Comments at 4. According to SAIC, the success of MBI's proposal was critically dependent on its pre-award communications with, and recruitment of, SAIC's incumbent personnel, whose contact information, the protester maintains, is not publicly available. See Supp. Protest at 3-4; Protester's Supp. Comments at 4-7. The protester points out in this regard that no other offerors, other than SAIC and MBI, proposed the

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<sup>7</sup> SAIC initially protested the agency's evaluation of MBI's past performance, arguing that MBI lacked relevant experience. In its comments on the agency report, however, SAIC did not address the agency's responses to the protester's past performance challenge. Consequently, we consider this protest ground to be abandoned. Washington-Harris Group, B-401794, B-401794.2, Nov. 16, 2009, 2009 CPD ¶ 230 at 5, n.3; Strategic Res., Inc., B-287398, B-287398.2, June 18, 2001, 2001 CPD ¶ 131 at 10-11.

incumbent personnel. Protester's Supp. Comments at 4, 7. The protester contends that MBI's use of SAIC's proprietary personnel information irreparably tainted the procurement and that MBI should be disqualified from the competition. See id.

The Federal Acquisition Regulation (FAR) requires that contracting officials avoid, neutralize, or mitigate potential significant conflicts of interest so as to prevent an unfair competitive advantage or the existence of conflicting roles that might impair a contractor's objectivity. FAR §§ 9.504(a), 9.505. The responsibility for determining whether an actual or apparent conflict of interest will arise, and to what extent the firm should be excluded from the competition, rests with the contracting agency. Aetna Gov't Health Plans, Inc.; Foundation Health Fed. Servs., Inc., B-254397.15 et al., July 27, 1995, 95-2 CPD ¶ 129 at 12. In making this determination, the FAR expressly directs contracting officers to examine the particular facts associated with each situation, giving consideration to the nature of the contracts involved, and further directs contracting officers to obtain the advice of counsel and appropriate technical specialists before exercising their own sound discretion in determining whether an OCI exists. FAR §§ 9.504, 9.505; CACI, Inc.-Fed., B-403064.2, Jan. 28, 2011, 2011 CPD ¶ 31 at 9.

The FAR recognizes that conflicts may arise in factual situations not expressly described in the relevant FAR sections, and advises contracting officers to examine each situation individually and to exercise "common sense, good judgment, and sound discretion" in assessing whether a significant potential conflict exists and in developing an appropriate way to resolve it. FAR § 9.505. Situations in which an OCI may arise include, as relevant here, where a firm has access to nonpublic information as part of its performance of a government contract and where that information may provide the firm with a competitive advantage in a later competition. FAR §§ 9.505(b), 9-505-4; Enterprise Info. Servs., Inc., B-405152 et al., Sept. 2, 2011, 2011 CPD ¶ 174 at 8.

In reviewing bid protests that challenge an agency's conflict of interest determinations, the Court of Appeals for the Federal Circuit has mandated application of the "arbitrary and capricious" standard established pursuant to the Administrative Procedures Act. See Axiom Res. Mgmt., Inc. v. United States, 564 F.3d 1374, 1381 (Fed. Cir. 2009). To demonstrate that an agency's OCI determination is arbitrary or capricious, a protester must identify "hard facts" that indicate the existence or potential existence of a conflict; mere inference or suspicion of an actual or potential conflict is not enough. Turner Constr. Co., Inc. v. United States, No. 2010-5146, slip. op. at 17-18 (Fed. Cir., July 14, 2011); PAI Corp. v. United States, 614 F.3d 1347, 1352 (Fed. Cir. 2010). In Axiom, the Court of Appeals noted that "the FAR recognizes that the identification of OCIs, and the evaluation of mitigation proposals are fact-specific inquiries that require the exercise of considerable discretion." Axiom Res. Mgmt., Inc., 564 F.3d at 1382. The standard of review employed by this Office in reviewing a contracting officer's OCI determination mirrors the standard required by Axiom. In this regard, we review the

reasonableness of the CO's investigation and, where an agency has given meaningful consideration to whether an OCI exists, will not substitute our judgment for the agency's, absent clear evidence that the agency's conclusion is unreasonable. See CACI, Inc.-Fed., supra, at 9; CIGNA Gov't Servs., LLC, B-401068.4, B-401068.5, Sept. 9, 2010, 2010 CPD ¶ 230 at 12.

Here, the CO states that, initially, he did not believe that the protester's allegations established a potential or actual OCI because the personnel information appeared to be available from other sources, including professional and social internet networking sites, as well as through personal interactions among SAIC and MBI employees. See 2nd Supp. AR at 3-4; see CO's 2nd Supp. Statement at 1-2. The CO noted that offerors could have also learned the names and contact information of PED personnel through advertisements that were placed in local newspapers and billboards that were posted near Hurlburt Field. See id.; see also Intervenor's Comments at 8, n.12 (offerors posted large billboards at entrance to Hurlburt Field, took out advertisements in local papers, and conducted job fairs). The CO also states that neither he, nor any of the technical, past performance, or price evaluators, provided SAIC personnel names and contact information to MBI.<sup>8</sup> CO's 2nd Supp. Statement at 1.

The record shows that, initially, the CO conducted little, if any, investigation after SAIC raised the OCI allegations. See AR at 7; CO's Supp. Statement; CO's 2nd Supp. Statement at 1. Although the Air Force asserted that SAIC's personnel information may be available from public sources, it did little to confirm that this was so. See 2nd Supp. AR at 3-4; see CO's 2nd Supp. Statement at 1-2. In response to the agency's request, our Office conducted a litigation risk alternative dispute resolution (ADR) conference with the parties, informing them that the CO's failure to investigate SAIC's OCI allegations presented significant litigation risks to the Air Force.<sup>9</sup>

Subsequently, the CO asked MBI how it obtained SAIC's personnel information, which the Air Force states is consistent with the requirements in FAR § 9.504(e) that, prior to withholding an award on the basis of an OCI, the CO allow a contractor

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<sup>8</sup> SAIC does not assert that there has been a violation of the procurement integrity provisions of the Office of Federal Procurement Policy Act, 41 U.S.C. §§ 2101-102, or that the agency provided SAIC employee information to MBI. See Supp. Protest at 3, n.1; Protester's Supp. Comments at 4.

<sup>9</sup> Litigation risk ADR is distinct from "outcome prediction" ADR, in which the GAO attorney handling the case informs the parties of what he or she believes the likely protest outcome will be and the reasons for that belief. See, e.g., Symvionics, Inc.--Costs, B-403230.6, May 16, 2011, 2011 CPD ¶ 103 at 2.

a reasonable opportunity to respond.<sup>10</sup> See CO's 2nd Supp. Statement. In response to the CO's request, MBI provided an affidavit from its vice president responsible for recruiting personnel for this competition. See id. attach., Affidavit of MBI Vice President, at 1-4. The vice president denied that MBI had identified SAIC's personnel from proprietary SAIC information and identified a number of public means by which it obtained the names of SAIC personnel. See id. He stated that MBI obtained some names of SAIC incumbent personnel from current and former MBI employees who were able to provide the names from their memory, as they had provided training to SAIC employees or worked at various locations with SAIC employees. He also states that MBI "reached out" to professionals in the local recruiting network to identify additional names and that MBI used other sources such as resume posting websites and social media websites to collect additional names and contact information, among other sources.<sup>11</sup> Id. at 3-4.

Here, we find that the CO reasonably determined that MBI did not obtain the names and contact information of SAIC personnel through access to nonpublic information as part of MBI's performance of a government contract. Rather, the record shows that, under a prior subcontract, MBI personnel trained AFSOC PED contract personnel, including SAIC personnel.<sup>12</sup> See, e.g., AR, Tab 18, MBI's Past Performance Evaluations, at 4; Tab 14, MBI's Past Performance Proposal at 6-8.

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<sup>10</sup> Both we and the Court of Federal Claims have recognized that an agency may investigate possible OCIs after the filing of bid protests. See, e.g., PCCP Constructors, JV; Bechtel Infrastructure Corp., B-405036 et al., Aug. 4, 2011, 2011 CPD ¶ 156 at 16; NETSTAR-1 Gov't Consulting, Inc. v. United States, No. 11-249C, at 8 (Fed. Cl., Oct. 17, 2011).

<sup>11</sup> According to MBI, it has used these recruitment techniques in earlier recruitment efforts and these recruitment processes are common industry practices. CO's 2nd Supp. Statement, attach., Affidavit of MBI Vice President, at 2; see Intervenor's Supp. Comments at 6. The protester disputes MBI's recruitment method, arguing that it was highly unlikely to have resulted in recruiting such a high percentage of the incumbent workforce. See Protester's Comments at 7-8; Protester's 2nd Supp. Comments at 8-9. (We note in this regard that SAIC's own proposal states that SAIC had recruited [DELETED] percent of its intelligence analysts currently at AFSOC from outside the local area and many of SAIC's managers have recruited nearly [DELETED] additional analysts for other intelligence commands and agencies. See SAIC's Technical Proposal at I-37.)

<sup>12</sup> The mere existence of a prior or current contractual relationship between a contracting agency and a firm, by itself, does not create an OCI. Integrated Concepts & Research Corp., B-309803, Oct. 15, 2007, 2008 CPD ¶ 117 at 6-7 (protest that award tainted by OCI denied where record does not support allegations that awardee had access to nonpublic information that would have provided a competitive advantage).



This is consistent with the explanation of MBI's vice president that its employees were familiar with, and could identify, current or former SAIC personnel.<sup>13</sup> CO's 2nd Supp. Statement, attach., Affidavit of MBI Vice President, at 3-4.

Although the protester continues to argue that the CO did not adequately investigate how MBI obtained the names of SAIC's personnel and to suggest that MBI may have learned the identify of SAIC personnel from access to nonpublic information in the performance of work at or for AFSOC, SAIC does not identify any hard facts showing that the CO's investigation and conclusion were unreasonable. In this respect, SAIC does not dispute that MBI may have learned the identity and names of current and former SAIC personnel by training and working with them. See, e.g., Protester's 2nd Supp. Comments at 8.

In short, the record does not support SAIC's allegations that MBI's proposal is based upon the use of nonpublic information obtained through the performance of a government contract. See Snell Enter., Inc., B-290113, B-290113.2, June 10, 2002, 2002 CPD ¶ 115 at 6-7 (protest that competitor gained unfair competitive advantage by obtaining names and home telephone numbers of protester's employees from the agency is denied where competitor was already familiar with protester's employees and protester suffered no unfair competitive advantage where the identities and telephone numbers of its employees could otherwise have been easily obtained); Textron Marine Sys., B-255580.3, Aug. 2, 1994, 94-2 CPD ¶ 63 at 16-18 (protester's organizational structure and staffing cannot reasonably be considered proprietary where it could be discerned by regular observation by other contractors as a result of their own authorized access to agency); Avtel Servs., Inc., v. United States, 70 Fed. Cl. 173, 205-208 (2005), citing, inter alia, Textron Marine, supra, (protester's employees' names and identities not proprietary where they are in the public domain via internet posting and where their personal information is known to relatives and friends with skills in the same line of work).

#### Technical Capability/Management Approach Evaluation

The protester challenges the Air Force's judgment that SAIC's proposal was marginal under the technical capability/management approach factor. Specifically, SAIC complains that the agency unreasonably evaluated technical proposals by treating the RFP's estimated level of effort of 187 FTEs as a minimum requirement. Protest at 13-16; Protester's Comments at 1-2. In this regard, the protester asserts that the RFP did not require offerors to provide a minimum number of PED personnel for the entire performance period, but only upon the start date. See

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<sup>13</sup> MBI's past performance proposal stated that, under its AFSOC subcontract from 2005 through 2010, MBI's team members routinely sat with the current contractor PED workforce. See AR, Tab 14, MBI's Past Performance Proposal at 8-9.

Protester's Comments at 2. The protester also contends that the agency did not meaningfully evaluate SAIC's approach to creating efficiencies and streamlining operations, or consider SAIC's institutional knowledge. See Protester's Supp. Comments at 7-8; Protester's 2nd Supp. Comments at 1-4.

In reviewing protests of an agency's evaluation in a task order competition as here, we do not reevaluate proposals but examine the record to determine whether the evaluation was reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. See Triple Canopy, Inc., B-310566.4, Oct. 30, 2008, 2008 CPD ¶ 207 at 6-7.

Here, the record does not support SAIC's argument that the Air Force applied the solicitation's estimated 187 FTE level of effort as a minimum requirement.<sup>14</sup> Rather, the record shows that, consistent with the solicitation's evaluation criteria, the agency evaluated the merits of offerors' proposed level of effort in light of the firms' explanations as to how they could perform the contract requirements.<sup>15</sup> That is, SAIC's proposal was not found unacceptable because it proposed less FTEs than the agency's identified estimate. SAIC's proposal was evaluated as being marginal under this factor because the agency concluded that SAIC's reduction in proposed level of effort, based upon [DELETED] that were yet to be developed, presented significant performance risk. Specifically, the agency states that SAIC proposed to begin cutting its level of effort within 6 months of beginning performance based upon [DELETED] that were not provided in SAIC's proposal and that were still being developed. Supp. AR at 3-4, 9. The Air Force concluded that SAIC did not adequately describe its proposed [DELETED] or efficiencies to achieve its [DELETED] staffing levels. We find nothing from our review of SAIC's proposal to

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<sup>14</sup> SAIC also complains that the Air Force in its report criticized the protester's proposal to provide only [DELETED] FTEs providing PED support services by the second option year, where the RFP required a minimum of 125 FTEs. The protester argues that the RFP only required offerors to provide a minimum of 125 FTEs for support services at the start of performance and that, in any event, the agency's criticisms were not reflected in the contemporaneous evaluation record. Protester's Comments at 5-6; Protester's Supp. Comments at 8-9. Although the contemporaneous record does not specifically address SAIC's proposal of less than 125 FTEs for PED analysts, the agency's explanations are consistent with, and explain, the agency's overall concern with the protester's proposed level of effort. We also disagree that the RFP only required offerors to propose 125 FTEs for PED support services at the start of performance. The PWS states unequivocally that to provide for continuous operations the contractor must provide a minimum of 125 PED personnel and maintain a stable workforce. PWS at 3-4, 14.

<sup>15</sup> Contrary to the protester's assertion, the agency's evaluation and source selection are adequately documented.

indicate that this judgment was unreasonable. See SAIC Technical Proposal at I-5--I-6.

We also find no merit to SAIC's contention that the Air Force failed to consider the firm's AFSOC experience and institutional knowledge in assessing the merits of the firm's reduced level of effort. The TET assessed as strengths under the technical capability/management approach factor SAIC's successful performance of the mission and numerous accolades. See AR, Tab 22, SAIC Technical Capability/Management Approach Evaluation Worksheets, at 3, 6; see also Tab 24, SAIC Past Performance Evaluation Worksheets, at 4 (SAIC's past performance was outstanding); supra n.6. The CO also recognized in his selection decision SAIC's experience and successful performance. See AR, Tab 12, Source Selection Decision, at 6, 12.

After considering all of the protester's arguments, and based on our review of the record, we find that the agency's evaluation of SAIC's technical proposal was reasonable. In evaluating proposals for fixed-price contracts, it is reasonable for an agency to consider the risk of poor performance which may be occasioned by a contractor's miscalculation of the personnel resources needed to perform in accordance with the solicitation's requirements. See Allied Mgmt. of Texas, Inc., B-232736.2, May 22, 1989, 89-1 CPD ¶ 485 at 6 (agency determination that protester's proposed staff was insufficient was reasonable); York Sys. Corp., B-237364, Feb. 9, 1990, 90-1 CPD ¶ 172 at 4 (agency reasonably concluded that protester's proposal to use fewer employees than agency estimated presented performance risks); Johnson Controls World Servs., Inc., B-249643.2, Jan. 28, 1993, 93-1 CPD ¶ 72 at 7 (protester's prior performance and experience alone is insufficient to show that its current proposed staffing is adequate to perform the requirement where proposal fails to justify the low staff levels offered).

SAIC also challenges the agency's evaluation of MBI's proposal under the technical capability/management approach factor, which SAIC complains reflected disparate treatment. Protest at 18-21; Supp. Protest at 8-11. The protester maintains that the agency simply assumed that MBI would successfully capture and provide the minimum 125 FTE's of PED personnel at the start of task order performance, but conducted no meaningful evaluation in that regard or otherwise considered the risk that MBI might not be able to recruit the required personnel. See Protester's Comments at 6-8; Protest at 18-20. The protester also contends that the agency failed to recognize SAIC's "exclusive" teaming arrangement with the incumbent subcontractor, which MBI also proposed to use, and that the Air Force did not consider the risk that MBI would be unable to provide the subcontractor. Id.; Protest at 20-22; Protester's Comments at 9-10.

The record does not support SAIC's challenge to the evaluation of MBI's proposal under the technical capability/management approach factor. Not only was MBI's proposed level of effort in line with the government's estimate, unlike SAIC's, but the agency assessed a number of strengths supporting the exceptional rating of MBI's

proposal under this factor. Among other things, the Air Force noted as strengths MBI's proposed compensation package, risk mitigation plan, availability of PED staff, and recruitment and retention record on relevant contracts. For example, the evaluators considered MBI's proposed pay raises, bonuses, and highly rated health insurance plan, to reflect a well thought-out, superb incentive plan. See AR, Tab 12, Source Selection Decision, at 6; Tab 16, MBI Technical Capability/Management Approach Evaluation Worksheets, at 3, 6. The evaluators also assessed MBI's risk mitigation strategies, which include, among other things, a pool of trained, non-incumbent PED personnel available from current MBI contracts at other military intelligence commands. See id., Tab 16, MBI Technical Capability/Management Approach Evaluation Worksheets, at 3, 6. Moreover, the evaluators found, based on their personal knowledge and past performance questionnaires, that MBI's record on relevant contracts was exceptional with regard to recruitment, zero to low vacancy rates, and placement of highly qualified staff. See AR at 9; Tab 18, MBI's Past Performance Evaluation Worksheets, at 2, 6, 9. In this respect, one evaluator commented that MBI had provided 80 employees at the start of another, relevant contract. See AR, Tab 18, MBI's Past Performance Evaluation Worksheets, at 6, 9.

With regard to MBI's proposal of the incumbent subcontractor, the agency notes that neither SAIC nor MBI included a copy of their subcontractor arrangement, nor fully disclosed the details of their agreements prior to award. See AR at 8. The record shows that the evaluators credited both SAIC and MBI for proposing to provide the incumbent subcontractor. Moreover, there was nothing in the contemporaneous evaluation that would have indicated to the Air Force that only SAIC could propose this subcontractor. Thus, we agree with the agency that it was reasonable to expect that more than one offeror would propose to provide the incumbent subcontractor, given that one of the intelligence systems described in the PWS is the subcontractor's proprietary network. See Supp. AR at 12; PWS at 7. We also agree with the agency that, given MBI's evaluated successful recruitment efforts and examples of recent successes, the Air Force had strong assurances that MBI would provide its proposed subcontractor.

In sum, SAIC has not showed that the agency's technical evaluation and selection decision were unreasonable or inconsistent with the RFP, and the protester's disagreement with the agency's judgment does not establish that the agency acted unreasonably. See Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

The protest is denied.

Lynn H. Gibson  
General Counsel