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## Decision

**Matter of:** Unispec Enterprises, Inc.

**File:** B-407937; B-407937.2

**Date:** April 16, 2013

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Antonio R. Franco, Esq., Alexander O. Levine, Esq., and Peter B. Ford, Esq., PilieroMazza PLLC, and Mark R. Zeidman, Esq., Dow Golub Remels & Beverly, LLP, for Wichita Tribal Enterprises, LLC, an intervenor.

Richard J. McCarthy, Esq., Bradley W. Smith, Esq., and Geoffrey S. Swanson, Esq., National Aeronautics and Space Administration, for the agency.

Noah B. Bleicher, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protester's complaints regarding the agency's evaluation of both protester's and awardee's technical and past performance proposals reflect mere disagreement with the agency's various judgments and provide no basis for sustaining the protest.

2. Agency's discussions were not unequal where the agency tailored the discussions to each offeror's proposal and, similar to the questions presented to the awardee, the agency identified various aspects of the protester's proposal that required additional rationale.

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### DECISION

Unispec Enterprises, Inc., of Largo, Maryland, protests the award of a contract to Wichita Tribal Enterprises, LLC, of Tulsa, Oklahoma, under request for proposals (RFP) No. NNK12423244R, issued by the National Aeronautics and Space Administration (NASA), for institutional support services for NASA's John F. Kennedy Space Center. Unispec challenges the agency's technical evaluation, past performance evaluation, and the conduct of discussions.

We deny the protest.

## BACKGROUND

The RFP, issued in May 2012 as a competitive section 8(a) set-aside, provided for the award of a single indefinite-delivery/indefinite-quantity (IDIQ) contract for a broad range of institutional support services throughout Kennedy Space Center (KSC). RFP at 1, §§ 1.2, 2.13. Referred to as the Kennedy Institutional Support Services (KISS) III procurement, the services requested include a wide variety of professional and para-professional functions such as technical training, financial management support, employee development and training, and business systems support. Id. § 1.2. The RFP, as amended, provided for a 9-month base period of performance and three 1-year option periods. Id. §§ 1.3, 2.15; RFP amend. 2, § 1.3. Offerors were informed that fixed-price task orders would be issued under the contract. RFP §§ 1.2, 2.11, 5.5.

The solicitation advised offerors that proposals would be evaluated based on the following three factors: technical capability, past performance, and price. Id. § 5.4(a). As individual factors, technical capability was significantly more important than past performance, and technical capability and past performance, when combined, were equal to price. Id. The RFP stated that award would be made to the firm that offered the proposal deemed “most advantageous to the Government.” Id.

The RFP identified three technical capability subfactors--management proposal, technical approach, and sample scenario. Id. Within each subfactor, the RFP instructed offerors to address various elements. Specifically, under the management proposal subfactor, offerors had to describe their proposed: management approach, organizational structure, compensation plan, phase-in plan, organizational conflict of interest mitigation plan, and safety and health plan. Id. § 5.3.1.1. Similarly, the technical approach subfactor contained four elements for offerors to address: overall technical approach, staffing and skill mix, incumbent capture plan, and key personnel/letters of intent. Id. § 5.3.1.2. Under the sample scenario subfactor, the RFP required offerors to address a sample situation requiring the contractor to replace and manage the entire secretarial function at KSC. Id. § 5.3.1.3.

With respect to past performance, the RFP required offerors to “identify up to three contracts (completed or ongoing) that the offeror or subcontractor has had within the past five years that best shows [the offeror’s] ability to perform the requirements of the contemplated contract.” Id. § 5.33(b). The RFP required offerors to submit past performance questionnaires for each of the identified efforts. Id. Additionally, the RFP provided that offerors “may submit additional information at their discretion if they consider such information necessary to establish a record of relevant performance.” Id. § 5.33(a).

The agency's evaluation plan stated that a source evaluation panel (SEP) would assess the strengths and weaknesses of the offerors' proposed approaches to perform the contract. Agency Report (AR), Tab 2.2, Evaluation Plan, at BATES 28-29. Specifically, a SEP technical capability team would evaluate technical proposals and document the significant strengths, strengths, weaknesses, significant weaknesses, or deficiencies that it found.<sup>1</sup> Id. at BATES 32. Based on these findings, proposals would be assigned an overall technical capability adjectival rating of excellent, very good, good, fair, or poor. Id. at BATES 32-33. With regard to the past performance factor, a SEP team would assess the relevance of and performance on prior contracts, review the past performance questionnaires, and identify the strengths and weaknesses of an offeror's relevant past performance. Id. at BATES 33. The SEP would assign offerors a confidence rating of either high confidence, moderate confidence, or low confidence. Id.

Prior to the deadline for the submission of proposals, the agency received offers from 15 firms, including from Unispec and Wichita. Contracting Officer Statement at 2. The SEP evaluated the 15 proposals and presented its findings to the source selection authority (SSA), who was responsible for making the ultimate award decision. AR, Tab 8.0, Initial Presentation to SSA, at BATES 1312-1377. The SSA determined that discussions were necessary and established a competitive range of the four technically highest-rated proposals, which included Unispec's and Wichita's. AR, Tab 9.0, Competitive Range Determination, at 1-2. NASA held two rounds of discussions with the four competitive range offerors in September and October 2012, and final proposal revisions (FPR) were submitted by November 13. Contracting Officer Statement at 3.

The SEP evaluated the FPRs and updated its initial findings. AR, Tab 17.0, FPR Findings, at BATES 2664-2690. The SEP assigned Unispec's proposal an overall technical capability rating of excellent and identified three significant strengths and one strength in the proposal. AR, Tab 18.0, Final Presentation to SSA, at BATES 2711. With regard to Unispec's past performance, the panel assigned the firm a confidence assessment rating of moderate confidence, based on excellent performance on contracts that were low in relevance to the work required under this solicitation.<sup>2</sup> Id. at 2723.

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<sup>1</sup> The evaluation plan defined a significant strength as "an aspect or combination of strengths that appreciable [sic] increases the confidence of successful contract performance." AR, Tab 2.2, Evaluation Plan, at BATES 32. A strength was defined as "an aspect in the proposal the [sic] increases the confidence of successful contract performance." Id. Within each of these ratings were sub-ratings of high, low, or "without annotation." Id.

<sup>2</sup> As part of its review of the relevancy of prior contracts, the SEP compared the tasks performed on the past performance project with the following four tasks to be performed under the KISS III contract: clerical, administrative, technical training,  
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With regard to Wichita’s proposal, the SEP assigned the proposal an overall technical capability rating of excellent and identified six significant strengths in the proposal. Id. at 2713. The SEP assigned Wichita a past performance confidence assessment rating of high confidence, due in part to the past performance of Wichita’s proposed subcontractor that served as the incumbent KISS contractor. Id. at 2723. The SEP presented its findings to the SSA, which are summarized as follows:

<b>Offeror</b>	<b>Technical Rating</b>	<b>Price</b>	<b>Past Performance</b>
Unispec	Excellent	\$37,252,203.71	Moderate Confidence
Wichita	Excellent	\$37,812,899.99	High Confidence

See AR, Tab 18.0, Final Presentation to SSA, at BATES 2705.

The SSA met with the SEP, reviewed the panel’s findings, and documented his selection decision in a source selection statement. As relevant here, the SSA acknowledged the strengths and significant strengths in Unispec’s and Wichita’s proposals and identified several “key discriminators” that distinguished the proposals.<sup>3</sup> For example, the SSA highlighted the significant strength the SEP assigned to Wichita’s proposal for the firm’s commitment to provide “highly competitive” wages and benefits commensurate with the incumbent workforce. AR, Tab 19, Source Selection Statement, at 9. In addition, the SSA found that various aspects of Wichita’s proposal under the technical approach subfactor were a “great benefit to the Government, significantly increasing the likelihood of successful accomplishment of KISS III requirements.” Id. at 9-10.

With regard to past performance, the SSA noted that while Unispec had an excellent past performance record, the firm’s “most related” contract had only 9 employees and, therefore, was not as relevant to the KISS III procurement, which involves 129 employees and 53 labor categories. Id. at 10. Consequently, the SSA concluded that Unispec’s past performance was “only marginally pertinent and barely meeting acceptable standards,” and the SSA lowered Unispec’s performance confidence assessment rating to low confidence. Id.

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and business systems. AR, Tab 17.4, Past Performance Evaluation, at BATES 2689-2690; AR, Tab 24.2, Past Performance Reevaluation, at BATES 2903-2904.

<sup>3</sup> The SSA concluded that the two other firms in the competitive range offered similar technical solutions to Unispec’s and Wichita’s at “measurably higher prices,” and they were not considered further. AR, Tab 19, Source Selection Statement, at 9.

In conclusion, the SSA found the “value of the superior aspects of the Wichita proposal compared to Unispec to be more than sufficiently advantageous as to warrant the 1.5% additional potential cost.” Id. Accordingly, the SSA decided that Wichita’s proposal was the most advantageous to the government and selected the firm for award. Id. On January 7, 2013, NASA provided Unispec a debriefing, and this protest followed.

Subsequent to the filing of the protest, the agency determined that it had incorrectly evaluated certain aspects of the offerors’ past performance. Specifically, the protester noted during its debriefing, and the agency acknowledged, that the past performance information presented to the SSA incorrectly stated that Unispec managed 9 employees under a Department of Transportation (DOT) effort when the firm had actually managed 55.<sup>4</sup> Protest at 7; AR at 14. As a result, NASA conducted a “complete reevaluation” of the past performance of Unispec and Wichita.<sup>5</sup> AR, Tab 24.6, Past Performance Reevaluation Presentation, at BATES 2915. As it had done previously, the SEP reviewed the relevancy of and performance on the prior contracts. Id. at BATES 2916. The SEP noted that Unispec’s prior contract with 55 employees involved only one of the four tasks to be performed on the KISS III contracts. AR, Tab 24.2, Past Performance Reevaluation, at BATES 2904. The other two efforts Unispec submitted for review involved two of the KISS III tasks. Id. The SEP concluded that the overall relevance of Unispec’s prior efforts remained low, despite the noted increase in the number of employees the firm had managed on one of its projects. Id. The SEP returned Unispec’s overall confidence rating, which had been lowered by the SSA, to moderate. In contrast, following the reevaluation, the SEP maintained Wichita’s overall confidence rating of high. Id. at BATES 2903.

The SSA reviewed the SEP’s findings and, on February 1, memorialized a new source selection in an addendum to his original source selection statement. See AR, Tab 24.7, Source Selection Statement Addendum, at BATES 2939-2944. In the addendum, the SSA noted that Unispec’s prior efforts “involved only some of the diversity of effort and complexities that the KISS III contract will involve.” Id. at BATES 2943. On the other hand, the SSA observed that the contracts managed by the Wichita team “involved the same magnitude of effort and complexities” as the KISS III contract. Id. Accordingly, the SSA adopted the SEP’s relevancy and

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<sup>4</sup> According to the protester, the DOT employee that completed the past performance questionnaire for this effort incorrectly provided information related to one task order that involved 9 Unispec employees and not the entire 55-person contract, which is what Unispec had submitted for review. Protest at 7-8.

<sup>5</sup> The protester does not object to the agency reevaluating past performance after the debriefing. Rather, the protester objects only to the revised evaluation findings, which arguments we address later in this decision.

confidence assessments. Id. In selecting Wichita for award, the SSA again concluded that “the superior aspects of the Wichita proposal will significantly enhance the Government’s confidence of highly successful contract performance and labor force stability, and will justify the marginal additional cost for a contract of the size, complexity and duration of KISS III.” Id. at BATES 2944.

## DISCUSSION

Unispec challenges various aspects of the agency’s evaluation under the technical capability factor. Unispec also objects to the agency’s evaluation of past performance. Finally, Unispec asserts that the agency conducted unequal discussions with the offerors.

The evaluation of an offeror’s proposal is a matter within the agency’s discretion. IPlus, Inc., B-298020, B-298020.2, June 5, 2006, 2006 CPD ¶ 90 at 7, 13. In reviewing an agency’s evaluation, our Office will not reevaluate proposals; instead, we will examine the record to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and applicable procurement statutes and regulations. Metro Mach. Corp., B-402567, B-402567.2, June 3, 2010, 2010 CPD ¶ 132 at 13; Urban-Meridian Joint Venture, B-287168, B-287168.2, May 7, 2001, 2001 CPD ¶ 91 at 2. An offeror’s mere disagreement with the agency’s evaluation is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

### Technical Capability

First, Unispec argues that the agency misevaluated its proposal under the technical capability factor. In this regard, Unispec points to a number of areas in its proposal that it argues should have been recognized as significant strengths. Protest at 4-7. Unispec also contends that NASA engaged in disparate treatment of the competing offerors because the agency rated certain aspects of Wichita’s proposal as significant strengths but did not reach the same conclusions with regard to “equally significant” features of Unispec’s proposal. Protest at 5. We have reviewed all of Unispec’s complaints and find that none provides a basis to sustain the protest. Some of Unispec’s challenges are discussed below.

For example, Unispec contends that the agency erred by not assigning its proposal a strength or significant strength for its compensation plan. Protest at 4. Unispec argues that its plan was “equal to, or better than” the one proposed by Wichita, which garnered a significant strength. Protest at 4. However, as set forth below, we find that the agency’s evaluation findings related to the offerors’ proposed compensation plans were reasonable and consistent with the RFP.

Under the management proposal subfactor, the solicitation instructed offerors to describe their proposed compensation plans, including their methodologies and

incentives for recruiting, motivating, staffing, and retaining qualified personnel (which included the existing current contract workforce). RFP § 5.3.1.1.C. In evaluating the awardee's proposal, the SEP specifically recognized Wichita's methodology to pay at least the wages and benefits that the incumbent contractor paid the current workforce. AR, Tab 17.1, KISS III Findings, FPR2, at BATES 2666; see AR, Tab 12.2.2, Wichita Technical Capability Proposal, at 8. Wichita's commitment not to decrease current pay rates, according to the SEP, demonstrated the firm's "ability to retain highly-qualified and exceptionally experienced personnel," and was a primary basis for assigning the proposal a significant strength for its compensation plan. AR, Tab 17.1, KISS III Findings, FPR2, at BATES 2666; see AR at 4; Contracting Officer Statement at 9. Unispec, on the other hand, did not offer NASA a similar guarantee that it would pay the wages and benefits that employees were receiving under the incumbent contract. Instead, Unispec proposed salaries based on "market research methodologies." Contracting Officer Statement at 9; see AR, Tab 15.1, Unispec Technical Capability Proposal, at 16.

On this record, we find that the agency reasonably assigned Wichita's proposal a significant strength for its compensation plan. That the agency did not assign the same rating to Unispec's compensation plan--which did not include similar wage and benefit guarantees--was not unreasonable and does not demonstrate disparate treatment, as the protester alleges.<sup>6</sup>

Another example of Unispec's disagreement with the agency's technical evaluation relates to the assignment of strengths for the overall technical approach element of proposals. Protest at 5-6; Comments/Supp. Protest at 11-12. The SEP assigned this aspect of Wichita's proposal a significant strength and assigned Unispec's a strength, which the protester contends evinces disparate treatment. We have reviewed the record and find nothing objectionable about the SEP's determinations.

For this element, the RFP required offerors to submit a "detailed narrative discussion of the proposed technical approach to perform [the contract]"

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<sup>6</sup> In a related argument, Unispec challenges the SEP's conclusion that Wichita had "direct knowledge" of the current employees' total compensation package. Comments/Supplemental (Supp.) Protest at 9-11; AR, Tab 17.1, KISS III Findings, FPR2, at BATES 2666. Unispec contends that Wichita's proposal did not claim such "comprehensive knowledge" of the incumbent wages. Comments/Supp. Protest at 9. On this issue, Unispec's disagreement with the agency's conclusion is not supported by the record. Indeed, Wichita's proposal explicitly indicated that the firm "know[s] exactly what the incumbent employees' [total compensation package] costs are going to be." AR, Tab 12.2.2, Wichita Technical Capability Proposal, at 8. (On this matter, we note for the record that Wichita's proposed subcontractor serves as the incumbent on the predecessor KISS contract.) Accordingly, we find nothing improper about the agency's reliance on this aspect of Wichita's proposal.

requirements . . . and include a description of any specific methods, procedures, and/or tools, which would be implemented in the performance of the contract.” RFP § 5.3.1.2.A. In evaluating proposals, the SEP recognized that both Wichita and Unispec proposed a “highly-effective process for recruiting, selecting, and training replacement and additional personnel necessary to maintain or accommodate fluctuating requirements.” Tab 17.1, KISS III Findings, FPR2, at BATES 2665-2666. These features earned Unispec’s proposal a strength. However, in addition to this feature, the evaluators concluded that Wichita’s proposal also demonstrated “proven policies, procedures, and corporate business and management systems that significantly increases the confidence of successful contract performance.” Id. at BATES 2666. In reaching this conclusion, the evaluators noted, among other things, that Wichita used “management through metrics” to determine a “skill mix balance that could be maintained through employee attrition or work reassignment rather than employee termination.” Id. These extra features led the SEP to assign Wichita’s proposal a significant strength rating for this element. Although the protester objects to the assignment of different ratings under this element, Unispec has not convincingly demonstrated that its proposal was on par with Wichita’s or that the agency’s findings were otherwise unreasonable.<sup>7</sup>

The protester also argues that the agency failed to evaluate the sample scenario subfactor. Comments/Supp. Protest at 8. The protester’s contention is incorrect. In this regard, the agency explains that it evaluated the sample scenario during its review of proposals, and both Unispec and Wichita met the RFP’s requirements. Supp. Contracting Officer Statement at 6. However, the SEP did not identify any strength, weakness, or deficiency under this subfactor for either offeror, and, consequently, the panel did not annotate any finding for the sample scenario in its report. Id. We find nothing objectionable about this approach. The agency was not required to document every instance where an offeror met the RFP’s requirement. See Federal Acquisition Regulation (FAR) § 15.305(a); Bldg. Operations Support Servs., LLC, B-407711, B-407711.2, Jan. 28, 2013, 2013 CPD ¶ 56 at 5.

In sum, we find that Unispec has not demonstrated that the agency’s conclusions are unreasonable. Our review of the record shows that the protester’s disparate

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<sup>7</sup> For example, Unispec complains that Wichita’s proposal “mentioned metrics only twice” and Unispec’s proposal “contained many more references to the use of metrics in management.” Comments/Supp. Protest at 11-12. However, the protester’s isolated focus on the use of the word “metrics” in the proposals is misplaced. In this regard, the record shows that Wichita’s proposal was credited for its overall technical approach, which included various systems, tests, metrics and other processes that the awardee proposed. The significant strength was not assigned solely on the basis of the use of the word metrics in the proposal, as the protester suggests.



treatment arguments merely reflect its disagreement with the agency's judgment and provide no basis to sustain the protest.

### Past Performance

Next, the protester objects to NASA's evaluation of past performance. Specifically, Unispec challenges its moderate past performance confidence rating, asserting that the reevaluation of past performance should have resulted in a higher rating. Comments/Supp. Protest at 6. Unispec also argues that it was improper for NASA to give Wichita "full credit" for its subcontractor's past performance and for NASA to consider all four of the past performance references provided by Wichita. Protest at 8; Comments/Supp. Protest at 2.

The evaluation of an offeror's past performance, including the agency's determination of the relevance of an offeror's performance history and the weight to be assigned to a subcontractor's past performance, is a matter of agency discretion, which we will not find improper unless it is inconsistent with the solicitation's evaluation criteria. CLS Worldwide Support Servs., LLC, B-405298.2 et al., Sept. 11, 2012, 2012 CPD ¶ 257 at 15; Nat'l Beef Packing Co., B-296534, Sept. 1, 2005, 2005 CPD ¶ 168 at 4. The evaluation of past performance, by its very nature, is subjective and we will not substitute our judgment for reasonably based evaluation ratings; an offeror's mere disagreement with an agency's evaluation judgments does not demonstrate that those judgments are unreasonable. FN Mfg., LLC, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 7.

Here, Unispec has not shown that it was unreasonable for the agency to assign a moderate confidence rating to the firm's past performance. On the contrary, the record clearly supports the assigned rating. As discussed above, during NASA's evaluation of past performance, the evaluators reviewed the relevancy of and performance on the contracts submitted for review. With regard to Unispec's past performance, the SEP noted that the largest of Unispec's three efforts--the one that included 55 employees--involved only one of the four tasks to be performed on the KISS III contract, and the other two smaller efforts involved only half of the tasks. Accordingly, the SEP reasonably determined that the overall relevancy of the three efforts was low. See AR, Tab 24.6, Past Performance Reevaluation Presentation, at BATES 2922. The low relevancy combined with the excellent overall performance resulted in a moderate performance confidence assessment. On this record, we find the agency's reevaluation of Unispec's past performance to be unobjectionable.<sup>8</sup>

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<sup>8</sup> Unispec argues that NASA should have increased the firm's overall performance confidence assessment solely because one of its efforts included 55 employees and not the 9 initially recognized by the evaluators. Comments/Supp. Protest at 6.

However, the number of personnel managed on the effort was but one component  
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Next, the protester challenges the agency's evaluation of Wichita's past performance. Unispec complains that Wichita's subcontractor's performance was given too much weight in the evaluation, and that Wichita submitted too many contract references for consideration. Comments/Supp. Protest at 2-4.

Here, the solicitation specifically required offerors to submit "up to three" examples of past performance for the offeror "or" its subcontractors. RFP § 5.3.3(a). Wichita submitted past performance information for two previous efforts that it performed and two efforts that its proposed subcontractor performed, one of which was the predecessor KISS contract. AR, Tab 24.2, Past Performance Reevaluation, at BATES 2903. The evaluators assessed the relevancy of each of these efforts and determined that the overall relevancy for Wichita's past performance was high.<sup>9</sup> Id. Based on the relevance of the efforts and the very good and excellent performance ratings, the evaluators reasonably concluded that Wichita demonstrated a high level of confidence in performing the KISS III contract. See id.

Unispec's assertion that subcontractor performance was given too much weight in Wichita's evaluation is not supported by the record. The RFP does not specify the weights given to subcontractor or contractor performance, and the agency did not assign any specific weight to each past performance reference. Unispec acknowledges that Wichita's subcontractor will be performing approximately [deleted] percent of the KISS III effort here, and Unispec has not shown that the agency's consideration of the subcontractor's performance history was disproportionate or unrelated to the work the subcontractor will perform. See Comments/Supp. Protest at 4. Moreover, although it is true that Wichita submitted a total of four past performance references when the RFP requested "up to three"

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that the agency considered in assessing relevance. As noted above, the evaluators also considered whether the tasks performed on the prior contracts were relevant to the tasks to be performed on the KISS III contract. The evaluators reasonably concluded here that the contract with 55 employees involved only one of the four KISS III tasks, a determination that Unispec has not challenged. Nevertheless, despite having only one similar task, the record shows that the evaluators actually increased (during the post-debriefing reevaluation of past performance) the relevance assigned to this particular project from low to medium based, in part, on the number of employees Unispec managed. Compare AR, Tab 17.4, Past Performance Evaluation, at BATES 2689, with AR, Tab 24.2, Past Performance Reevaluation, at BATES 2904.

<sup>9</sup> The evaluators rated the relevancy of the two efforts attributed to Wichita as high and low and rated the relevancy of the two efforts attributed to Wichita's subcontractor as high and medium. AR, Tab 24.2, Past Performance Reevaluation, at BATES 2903.

for the contractor “or” subcontractor, we are unpersuaded that Unispec was prejudiced in the evaluation. Had the agency not considered one reference, the remaining record supports Wichita’s past performance evaluation rating. Alternatively, if the three-reference limit were similarly waived as to Unispec, Unispec has not argued that it could have improved its past performance rating with any additional references. See Paragon TEC, Inc., B-405384, Oct. 25, 2011, 2011 CPD ¶ 240 at 9 (competitive prejudice is an essential element of a viable protest). Accordingly, we find no basis to sustain any of Unispec’s challenges to the past performance evaluation.

### Unequal Discussions

Finally, Unispec asserts that NASA conducted unequal discussions with the offerors. Unispec specifically complains that NASA gave Wichita “unique and valuable assistance” that it did not give to Unispec during discussions. Supp. Comments at 5.

In negotiated procurements, whenever discussions are conducted by an agency, they are required to be meaningful, equitable, and not misleading. Metro Mach. Corp., B-295744, B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 19. Agencies must lead offerors into the areas of their proposals that contain significant weaknesses or deficiencies, and may not mislead offerors. Metro Mach. Corp., B-281872 et al., Apr. 22, 1999, 99-1 CPD ¶ 101 at 6-7. In connection with the requirement that discussions be meaningful, offerors may not be treated unequally; that is, offerors must be afforded equal opportunities to address the portions of their proposals that require revision, explanation, or amplification. Unisys Corp., B-406326 et al., Apr. 18, 2012, 2012 CPD ¶ 153 at 7. However, the requirement for equal treatment does not mean that discussions with offerors must, or should, be identical. To the contrary, discussions must be tailored to each offeror’s own proposal. FAR §§ 15.306(d)(1), (e)(1); WorldTravelService, B-284155.3, Mar. 26, 2001, 2001 CPD ¶ 68 at 5-6.

Here, as discussed above, NASA submitted discussions items to both offerors after the submission of initial proposals.<sup>10</sup> In its discussions with Wichita, the agency asked the firm to “provide clarity” and “explain [its] rationale” for three different aspects of Wichita’s initial proposal. AR, Tab 10.2, Wichita Discussions, at BATES 1395. Contrary to the protester’s assertion that the discussions were unequal, the record shows that the agency sought similar information from Unispec.

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<sup>10</sup> Although NASA refers to the communications it had with Wichita as clarifications, see Supp. AR at 11, the record shows that they were discussions. See FAR § 15.306; Tipton Textile Rental, Inc., B-406372, May 9, 2012, 2012 CPD ¶ 156 at 12 (discussions occur when an agency provides an offeror with an opportunity to revise or modify its proposal in some material respect).

For example, NASA sought from Unispec a “rationale” for how the firm’s proposed compensation plan would ensure a 100 percent capture rate for the incumbent workforce. AR, Tab 10.1, Discussions with Unispec, at BATES 1388. Similarly, NASA asked Unispec to explain the rationale for its proposed overtime rates. Id. NASA also identified several other areas of Unispec’s proposal that required additional explanation. Id. On this record, we disagree with the protester’s claim that the agency did not give its firm the same “hints, clues, or prompts” that it gave the awardee’s.<sup>11</sup> Comments/Supp. Protest at 7.

For the first time in its supplemental comments, Unispec argues that it was improper for NASA not to have asked the firm for additional information about two specific areas of its proposal--its plan to identify fluctuating workloads and the recruitment tools part of its technical approach. Supp. Comments at 6. With regard to these areas in particular, Unispec contends generally that discussions could have helped it “improve its evaluation.” Id. However, Unispec has not explained how it would have changed its proposal had the agency conducted discussions on the two proposal areas the protester identified, or on any other areas. Therefore, the protester has not established competitive prejudice. See Paragon TEC, Inc., supra, at 9; Klinge Corp., B-309930.2, Feb. 13, 2008, 2008 CPD ¶ 102 at 7 n.4 (general contention that protester might have revised proposal during further discussions is insufficient to show competitive prejudice). Accordingly, we find no merit to Unispec’s contention that the agency’s discussions were unequal.

In sum, the protester has not shown that the agency’s evaluation under the technical capability or past performance factors was unreasonable or that the source selection decision was flawed. The protester’s complaints in this regard amount to mere disagreement; they do not show improper actions by NASA or otherwise provide a basis to sustain the protest. Likewise, the record reflects that the agency’s discussions with the offerors were unobjectionable.

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>11</sup> As discussed above, NASA conducted two rounds of discussions with the offerors. During the second round of discussions, the agency asked the competitive range offerors to complete a revised pricing template, the contents of which are not at issue here. See AR, Tab 14.1, Authority to Reopen Discussions, at BATES 1831.