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## Decision

**Matter of:** BAE Systems Technology Solutions & Services, Inc.

**File:** B-409914; B-409914.2

**Date:** September 16, 2014

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Michael R. Charness, Esq., David R. Johnson, Esq., Jenny J. Yang, Esq., and Elizabeth Krabill McIntyre, Esq., Vinson & Elkins LLP, for the protester. Anne B. Perry, Esq., Jonathan S. Aronie, Esq., Townsend L. Bourne, Esq., and Christine R. Couvillon, Esq., Sheppard Mullin Richter & Hampton LLP, for The Wexford Group International, the intervenor. Jennifer L. Howard, General Services Administration, for the agency. Heather Weiner, Esq., and Jonathan L. Kang, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest challenging the agency's evaluation of the protester's proposal as technically unacceptable is denied where the agency reasonably concluded that the protester's proposal failed to comply with mandatory requirements for key personnel.
  2. Protest alleging bias on the part of an agency evaluator is denied where protester does not support its allegations with convincing proof, and the record does not otherwise reflect bias.
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### DECISION

BAE Systems Technology Solutions & Services, Inc., of McLean, Virginia, protests the issuance of a task order to The Wexford Group International, a wholly-owned subsidiary of CACI International Inc. (Wexford-CACI), of Vienna, Virginia, under task order request (TOR) No. GSC-QF0B-14-32826, which was issued by the General Services Administration (GSA), Federal Systems Integration and Management Center, for analytical services and support to the Department of Defense, Joint Improvised Explosive Device Defeat Organization (JIEDDO) Counter-Improvised Explosive Device Operations/Intelligence Integration Center (COIC). BAE argues that the agency improperly found its proposal technically unacceptable and ineligible for award. The protester also contends that the agency's evaluation was tainted with bias.

We deny the protest.

## BACKGROUND

On February 20, 2014, GSA issued the TOR under the provisions of Federal Acquisition Regulation subpart 16.5 to firms that had been awarded JIEDDO Operations Support Services indefinite-delivery, indefinite-quantity contracts, to provide specialized operations and intelligence analysis to special operations forces in various locations in the continental United States and overseas. TOR § C-1. The TOR anticipated the issuance of a cost-plus-fixed-fee task order, with some cost-reimbursable and fixed-price contract line item numbers (CLINs), for a base period of 18 months, with two 1-year options. Id. §§ B.2, B.3.

The TOR provided for award on a best-value basis, considering the following two factors: (1) technical, and (2) cost/price. TOR § M-1. The technical factor included the evaluation of the following two subfactors: (1) technical approach, and (2) management and staffing approach. Id. § M.5. The non-price factors, when combined, were significantly more important than price. Id. § M-1. In addition, the solicitation identified a list of pass/fail elements relating to personnel and compliance; to be eligible for award, a proposal was required to receive a pass rating for each listed element. Id. § M.5.

The TOR required that offerors submit proposals in three separate parts: (1) a written cost/price proposal (part I); (2) a written technical proposal (part II); and (3) an oral technical proposal (part III). TOR §§ L.8, L.9, L.11. For the technical evaluation, the TOR stated that the agency “will combine the results of the written and oral submissions to arrive at a rating for the technical evaluation factors as a whole.” Id. § M.5. The TOR also stated that the “receipt of an evaluation rating of Not Acceptable in any single Factor may result in the overall proposal being determined Not Acceptable and therefore ineligible for award.” Id. (emphasis in original).

Under the management and staffing approach factor, the TOR directed offerors to complete a key personnel qualification matrix, which required that offerors list the specialized experience identified in section H.6.1 of the TOR for key personnel, as well as the qualifications of the individuals proposed by the offerors as key personnel. TOR § L.9.2.

GSA received proposals from two offerors, BAE and Wexford-CACI, by the closing date of March 27. Contracting Officer (CO) Statement, at 3. Wexford-CACI is the incumbent for the requirement. AR at 14. The chairperson of the technical evaluation board (TEB) evaluated both proposals against the pass/fail criteria in the TOR, and concluded that both proposals passed all pass/fail criteria. CO Statement at 3. On April 2 and 3, the agency conducted oral presentations in accordance with

the TOR. Id. At the conclusion of the oral presentations, the TEB provided clarification questions to the offerors, and documented the responses. Id. at 3-4.

After the oral presentations, the TEB completed its evaluation, and assigned the following adjectival ratings to BAE's and Wexford-CACI's proposals:<sup>1</sup>

	<b>BAE</b>	<b>WEXFORD-CACI</b>
<b>Technical</b>	<b>Not Acceptable</b>	<b>Excellent</b>
Technical Approach	Acceptable	Excellent
Management & Staffing Approach	Not Acceptable	Excellent
<b>Total Price</b>	<b>\$149,749,490</b>	<b>\$149,571,258</b>

Agency Report (AR), Tab 15, Price Negotiation Memorandum, at 2, 4.

The TEB found BAE's proposal unacceptable under factor 2, management and staffing approach, based on a deficiency and two significant weaknesses. AR, Tab 14, Technical Evaluation Board Consensus Report, at 27. The agency assigned the deficiency because BAE's proposal failed to propose a task order project manager that complied with the TOR's mandatory qualification requirements for that key personnel position. Id. The first significant weakness was assigned because the qualifications of BAE's proposed [DELETED] were not sufficient for managing [DELETED] and presented "[a] significant risk that [DELETED] would not be adequate with this individual managing the endeavor." Id. at 30. The second significant weakness was assigned because BAE's staffing distribution was confusing and inadequate. Id. at 27. Based on the unacceptable rating for the management and staffing approach factor, the TEB assigned BAE's proposal an overall not acceptable rating for its technical proposal. Id. at 25. Specifically, the TEB stated that "[a]s a result of the significance of [the] staffing to the success of the project, this rendered the proposal, as a whole, not acceptable," and that the "acceptable rating [received by BAE] for the Technical Approach [factor] did not outweigh the staffing deficiency and significant weaknesses." Id. Because the TEB found BAE's technical proposal unacceptable overall, and therefore, ineligible for award, the agency did not evaluate BAE's cost/price proposal. AR, Tab 15, Price Negotiation Memorandum, at 5; CO Statement at 5.

The source selection official (SSO)<sup>2</sup> concurred with the TEB's evaluation, and concluded that award to Wexford-CACI was in the best interest of the government,

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<sup>1</sup> The TEB assessed the technical proposals as excellent, good, acceptable, and not acceptable. AR, Tab 14, Technical Evaluation Board Consensus Report, at 7-9.

<sup>2</sup> The SSO was also the contracting officer. AR, Tab 15, Price Negotiation Memorandum, at 36.

and awarded that firm the task order. AR, Tab 15, Price Negotiation Memorandum, at 35. BAE requested and received a debriefing, and this protest followed.<sup>3</sup>

## DISCUSSION

BAE argues that GSA improperly found its proposal technically unacceptable and ineligible for award. The protester also raises numerous other challenges regarding GSA's evaluation of BAE's and Wexford-CACI's technical proposals. In addition, BAE asserts that one of the technical evaluators was biased against BAE and in favor of Wexford-CACI. For the reasons discussed below, we conclude that the agency reasonably evaluated BAE's proposal as technically unacceptable and ineligible for award. Based on our review of the record, we also find no basis to conclude that the procurement was tainted by bias or conducted in bad faith. With regard to the remaining protest grounds, we have considered all of the protester's arguments, and find that none provides a basis to sustain the protest.

In reviewing protests challenging an agency's evaluation of proposals, our Office does not independently evaluate proposals; rather, we review the agency's evaluation to ensure that it is consistent with the terms of the solicitation and applicable statutes and regulations. SOS Int'l, Ltd., B-402558.3, B-402558.9, June 3, 2010, 2010 CPD ¶ 131 at 2. We have long held that the evaluation of proposals is a matter within the discretion of the procuring agency; we will question the agency's evaluation only where the record shows that the evaluation does not have a reasonable basis or is inconsistent with the RFP. Hardiman Remediation Servs., Inc., B-402838, Aug. 16, 2010, 2010 CPD ¶ 195 at 3. An offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal. Recon Optical, Inc., B-310436, B-310436.2, Dec. 27, 2007, 2008 CPD ¶ 10 at 6.

### Technical Evaluation

BAE contends that GSA improperly found its proposal unacceptable under the management and staffing approach factor based on a deficiency and two significant weaknesses assessed to its proposal under this factor. We conclude that GSA's evaluation was reasonable.

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<sup>3</sup> As the value of this task order is in excess of \$10 million, this procurement is within our jurisdiction to hear protests related to the issuance of task orders under JIEDDO multiple-award indefinite-delivery, indefinite-quantity contracts. 10 U.S.C. § 2304c(e)(1)(B).

## Evaluation of Mandatory Key Personnel

First, BAE argues that GSA improperly assessed a deficiency to its proposal under the management and staffing approach factor for failing to propose a task order project manager (TOPM) that complied with the TOR requirements for key personnel. As discussed above, the TOR specified that an offeror's key personnel qualification matrix must list the specialized experienced identified in section H.6.1 of the TOR for key personnel, as well as the qualifications of the individuals proposed as key personnel. TOR § L.9.2. The TOR included the TOPM in the list of personnel considered key, and required that the proposed individual have, as relevant here, "experience managing task orders/contracts of similar scope and size," and the "ability to serve as the Contractor's task order manager and represent the Contractor in communications with the Government's Contracting Officer, COR, and TPOC [technical point of contact]." Id. §§ H.6.1, H.6.1.2(b). In addition, the TOR required that the proposed TOPM have "[t]en (10) years of relevant senior leadership/program management and operational experience with U.S. military or other Federal Government agencies, at the Brigade or equivalent level, but preferably in the U.S. Special Operations environment." Id. § H.6.1.2(e). The TOR also required "[s]even (7) years in supervision and management of substantive projects involving operational and analytical support and integration in a SOF operational environment." Id.<sup>4</sup>

The TEB assessed a deficiency for BAE's proposal because its proposed TOPM did not meet two of the TOR's required mandatory qualifications. First, with regard to the TOR requirement that the proposed TOPM have "experience managing task orders/contracts of similar scope and size," the TEB found that, for BAE's proposed TOPM, "the offeror has not documented any experience managing task orders/contracts of similar scope and size." AR, Tab 14, Technical Evaluation Board Consensus Report, at 32-33. In this regard, the TEB explained that, while the proposed TOPM's "stated experience from 2012 to 2014 indicates that he 'routinely communicates with government contracting officers regarding mission requirements and advises officers on how industry capabilities can achieve mission needs,' . . . [it] does not reflect management of a task order." AR, Tab 14, Technical Evaluation Board Consensus Report, at 32-33.

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<sup>4</sup> The other mandatory requirements for the TOPM included a requirement for either a Project Management Institute/Program Management Professional certification, or Defense Acquisition Workforce Improvement Act, Level III, Program Management certification, as well as experience and ability in "direct[ing] and manag[ing] contract functions involving multiple, complex and interrelated project tasks," and in formulating, reviewing, and executing "task plans and deliverable items." TOR § H.6.1.

The TEB further stated that its concern regarding this issue was not resolved by BAE during the oral question and answer session. Id. at 33. There, the proposed TOPM stated that “his qualifications emanate from his current position with the offeror (i.e., ‘SOCOM organizational knowledge in managing diverse program planning teams in anticipating and preparing for emerging acquisition requirements’).” Id. The TEB explained that the TOPM’s statement of his qualifications “indicated that his efforts relate more to business development than project management,” which the TEB concluded was not adequate to constitute “experience managing task orders/contracts of similar scope and size,” as required by the TOR. Id.

Similarly, with regard to the proposed TOPM’s experience from 2005 to 2012, the TEB stated that “[t]he offeror’s written Key Personnel qualification matrix was vague on supporting documentation,” and “relied heavily on the nominee’s experience as a COR [contracting officer representative] for significantly smaller contracts. Id. at 33. Based on this, the TEB found that the “COR duties would not qualify as PM duties on this type of effort,” and that “the offeror has not indicated any experience as a contractor managing a Government Task Order.” Id.

The second basis for finding that BAE’s proposed TOPM unacceptable concerned the TOR’s requirement to demonstrate “[t]en (10) years of relevant senior leadership/program management and operational experience with U.S. military or other Federal Government agencies, at the Brigade or equivalent level, but preferably in the U.S. Special Operations environment.” Id. Specifically, the TEB stated that “seven of the ten years of relevant experience from 2005 to 2012 was as a Government COR, which does not qualify as senior leadership experience.” Id.

Because the TEB found that BAE’s proposed TOPM did not meet these two required mandatory qualifications, the TEB concluded that the proposed TOPM “does not have the mandatory experience to act as the Project Manager on a task order of this size and scope.” Id. The TEB explained that “[h]aving a TOPM in charge of this Task Order without such critical requirements as those included in the TOR would present significant risk to the Government” and that “[t]his is a material failure to meet a mandatory requirement of Section H.” Id. Accordingly, the evaluators assessed a deficiency to BAE’s proposal for this factor. Id.

BAE acknowledges that the acceptability of its proposed TOPM is based on COR experience. See Protest at 14. The protester disagrees, however, with the evaluators’ assessment that the experience of its proposed TOPM as a COR does not satisfy the TOR’s requirements for senior leadership experience, and task order program management experience. BAE asserts that the agency automatically discounted the COR experience, and ignored information in BAE’s proposal that demonstrated that BAE’s proposed TOPM gained the experience required by the TOR during his tenure as a COR. Id.

Based on our review of the record, we find nothing unreasonable about the agency's evaluation. As our Office has held, offerors are responsible for submitting a well-written proposal with adequately-detailed information that allows for a meaningful review by the procuring agency. Hallmark Capital Grp., LLC, B-408661.3 et al., Mar. 31, 2014, 2014 CPD ¶ 115 at 9. Here, we think the agency reasonably found that, to the extent BAE believed that its proposed TOPM's experience as a COR met the solicitation requirements, its proposal failed to adequately explain the basis for this claim.

As discussed above, the record reflects that the evaluators found that BAE's proposal was "vague on supporting documentation," and "relied heavily on the nominee's experience as a COR for significantly smaller contracts," which the evaluators concluded was insufficient to "qualify as PM duties on this type of effort." AR, Tab 14, Technical Evaluation Board Consensus Report, at 33. As the agency explains in response to the protest, "[a COR] is very different from a TOPM" because a COR is "appointed to assist the Contracting Officer in the administration of the Task Order," has "no authority over personnel," "does not manage or supervise personnel," and "has no authority over performance of requirements." AR at 13 (quoting TOR, J-2, COR Appointment Letter). In contrast, the TOPM is "responsible for overall task order performance," and "shall be responsible for formulating and enforcing work standards, assigning Contractor schedules, reviewing work discrepancies, supervising contractor personnel and communicating policies, purposes, and goals of the organization to subordinates." TOR § H-3; AR at 13. Additionally, the protester does not disagree with the agency that the nominee's experience as a COR was for "significantly smaller contracts" than the current task order. Protester's Comments (July 18, 2014), at 9-12.

Although the protester was given the opportunity to clarify this issue during the oral presentation, the record reflects that during the oral question and answer session, the proposed TOPM stated that "his qualifications emanate from his current position with the offeror (i.e., 'SOCOM organizational knowledge in managing diverse program planning teams in anticipating and preparing for emerging acquisition requirements')." AR, Tab 14, Technical Evaluation Board Consensus Report, at 32-33. The TEB explained that this statement of the proposed TOPM's qualifications "indicated that his efforts relate more to business development than project management," which the TEB concluded was not adequate to constitute "experience managing task orders/contracts of similar scope and size," as required by the TOR. Id. The TEB concluded that "the offeror has not documented any experience managing task orders/contracts of similar scope and size."

While the protester may disagree with the agency's assessment that the COR experience of BAE's proposed TOPM does not satisfy the TOR's requirements for senior leadership experience, and task order program management experience, the protester's disagreement with the agency's evaluation does not render the agency's evaluation unreasonable, or provide a basis to sustain the protest. Ben-Mar

Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7. AR, Tab 14, Technical Evaluation Board Consensus Report, at 33. Accordingly, we conclude that the agency reasonably assessed a deficiency and evaluated BAE's proposal not acceptable under the management and staffing approach factor.

The protester also argues that the evaluation reflects disparate treatment because Wexford-CACI's proposed TOPM also failed to meet all of the TOR's mandatory requirements for the position, but the agency did not similarly assess Wexford-CACI's proposal a deficiency for this failure.<sup>5</sup> Based on our review of the record, however, we find no merit to this argument.

Despite BAE's general contention that Wexford-CACI's proposed TOPM does not meet the TOR requirement for ten years of "relevant senior leadership/program management and operational experience with U.S. military . . . preferably in the U.S. Special Operations environment," Wexford-CACI's proposal states that its proposed TOPM has the required experience. Specifically, the proposal states that the awardee's proposed TOPM has the following experience: (1) 6 years of experience as the program manager of [DELETED], (2) 3 years of experience as the senior strategic planner for [DELETED], and (3) 22 years of active military duty experience as a "Special Forces Officer." AR, Tab 13, Wexford-CACI's Proposal, Part II, B.1; Protester's Comments (July 18, 2014), at 10-11. In response to the protest, the agency states that it relied on these areas of experience in finding that Wexford-CACI's proposed TOPM met the requirement for "ten (10) years of relevant senior leadership/program management and operational experience." Supp. AR (July 28, 2014), at 15-16. We conclude that the agency's assessment in this regard was reasonable.

BAE also contends that Wexford-CACI's proposed TOPM did not meet the TOR requirement for seven years of experience in "supervision and management of substantive projects involving operational and analytical support and integration in a SOF Operational environment." Protester's Comments (July 18, 2014), at 10-11.

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<sup>5</sup> BAE also argues that the TOR's evaluation criteria for key personnel included a mandatory requirement for key personnel for "successful completion of the Attack the Network (AtN) Advanced Analytics program certification," and asserts that Wexford-CACI's proposed senior analyst lacked this certification. Protester's Supp. Comments (Aug. 4, 2014), at 10-11. As the agency explains, however, the referenced AtN certification is not part of the key personnel evaluation under section M of the TOR, but rather, a performance requirement listed in section H.10 of the TOR under personnel training and certification requirements. See TOR §§ M.5.2, L.9.2 (stating that the key personnel qualification matrix must list the qualifications identified in section H.6.1 of the TOR for key personnel). Accordingly, we find no merit to this argument.



Wexford-CACI's proposal details the following experience for its proposed TOPM: (1) 6 years of experience as the program manager of [DELETED], and (2) 3 years managing support to the [DELETED]. AR, Tab 13, Wexford-CACI's Proposal, Part II, B.1 While the protester asserts that alleged inconsistencies and confusing statements in Wexford-CACI's proposal call into question the qualifications of Wexford-CACI's proposed TOPM, the protester provides no basis to conclude that the awardee's proposed TOPM failed to meet the solicitation's minimum requirements. The protester's disagreement with the agency's evaluation does not support the protester's allegation of disparate treatment, and as noted above, is insufficient to render the agency's evaluation unreasonable. Ben-Mar Enters., Inc., supra.

### Evaluation of Non-Mandatory Staffing

Next, BAE challenges the two significant weaknesses that were also assessed to its proposal under the management and staffing approach factor, arguing that the agency improperly evaluated information included in BAE's proposal, but not required by the TOR, and failed to evaluate information included in BAE's proposal. Although we do not address both of the protester's arguments in detail, we have fully considered both of them and find that neither provides a basis to sustain the protest.

For example, the protester argues that GSA unreasonably assessed a significant weakness for its proposed [DELETED] because the TOR did not require a [DELETED]. As discussed above, however, the TOR stated that the agency would evaluate the "relevance of the qualifications of . . . proposed Key Personnel." TOR § M.5.2. In its proposal, BAE proposed a [DELETED] as one of its additional, non-mandatory key personnel, and included this proposed individual and a list of his qualifications in BAE's key personnel matrix. AR, Tab 9, BAE Proposal, Part II, at B-20. The agency assessed a significant weakness in BAE's proposal based on its conclusion that the qualifications of BAE's proposed [DELETED] were not sufficient for managing [DELETED] and presented "a significant risk that [DELETED] would not be adequate with this individual managing the endeavor." AR, Tab 14, Technical Evaluation Board Consensus Report, at 30. Specifically, the TEB stated that BAE's "supporting documentation in the Key Personnel Matrix is vague," and that, in response to questions, BAE "pointed to corporate [DELETED] activities rather than his participation, personally with managing [DELETED]." Id. Based on our review of the record, we find that GSA's evaluation of BAE's proposed [DELETED] was reasonable. BAE proposed its [DELETED] as one of its key personnel, and the TEB evaluated the "relevance of the qualifications" of BAE's [DELETED], as specified by the TOR. See TOR § M.5.2.

In sum, for the reasons discussed above, we conclude that the agency reasonably found BAE's proposal technically unacceptable overall and ineligible for award. In this regard, the TOR stated that a "not acceptable" rating in any single factor may

result in the overall proposal being assessed not acceptable and ineligible for award. TOR § M.5. The SSO explained that BAE “received a not acceptable rating for the second evaluation factor of management and staffing approach,” and that the “management and staffing approach was one of two evaluation factors being evaluated, and led to the overall rating [for BAE] being not acceptable.” AR, Tab 15, Price Negotiation Memorandum, at 2. The SSO stated that BAE’s proposed TOPM did not meet the TOR mandatory requirements which produced a deficiency, and that there were significant weaknesses associated with the qualifications of the additional key personnel and the proposed staffing distribution. Id. The SSO further stated that these significant weaknesses, alone, “present a significant risk that the Government’s desired outcomes will not be achieved.” Id. The SSO found that “[t]he acceptable rating for [BAE’s] technical approach did not outweigh the staffing deficiency and significant weaknesses.” Id. at 3. Accordingly, the SSO concluded: “BAE Systems['] proposal is not acceptable overall, resulting in the rejection of their technical proposal.” Id. We find that the agency’s evaluation in this regard was reasonable. For this reason, we need not address the remainder of BAE’s arguments, which concern the assessment of various other strengths and weaknesses assigned to the offerors’ proposals.

#### Evaluator Bias

BAE asserts that a member of the TEB was biased in favor of Wexford-CACI, and against BAE. In support of its allegation of bias, the protester relies on a declaration from a BAE senior director, which asserts the following: (1) that the TEB member was the subject of a Department of Defense Inspector General (DODIG) investigation for providing inappropriate favors to Wexford-CACI on its incumbent contract, and that the DODIG issued a report following the investigation which detailed the TEB member’s actions; (2) that the TEB member was formally reprimanded by the Director of JIEDDO as a result of the investigation and report; and (3) that the TEB member relaxed a contract requirement under the incumbent contract by allowing Wexford-CACI to submit deliverables without using a required quality control process. Supp. Protest (June 20, 2014), Exh. A, Decl. of BAE Systems Senior Director (June 20, 2014), at ¶¶ 4, 6; Protest at 12-13. In addition, BAE argues that the agency’s evaluation record evidences bias, as shown by what the protester contends was disparate treatment of the offerors. As discussed below, we have reviewed the record, and find no credible evidence of bias or bad faith on the part of this individual or any other agency officials.<sup>6</sup>

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<sup>6</sup> BAE’s protest also alleges bias on the part of a second evaluator. Protest at 7-8, 11-13. These allegations, however, are general, unsupported, and fail to demonstrate credible evidence of bias or bad faith. Accordingly, we conclude that the protester has failed to state a valid basis of protest. 4 C.F.R. §§ 21.1(c)(4) and (f) (a protest must include a detailed statement of the legal and factual grounds for the protest, and the grounds stated must be legally sufficient); see Pacific

(continued...)

Government officials are presumed to act in good faith, and a protester's contention that procurement officials are motivated by bias or bad faith must be supported by convincing proof; our Office will not consider allegations based on mere inference, supposition, or unsupported speculation. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7-8; Shinwha Elecs., B-290603 et al., Sept. 3, 2002, 2002 CPD ¶ 154 at 5 n.6. Here, the protester has made no such showing.

In response to BAE's allegations, GSA provided numerous declarations that directly refute all three of the protester's allegations. For example, in response to the first allegation--that the TEB member was the subject of a DODIG investigation and report for providing inappropriate favors to Wexford-CACI on Wexford-CACI's incumbent contract--the agency provided an affidavit from the Deputy Inspector General of Intelligence and Special Program Assessments, DODIG, that stated: "I can definitely state that neither the underlying investigation, nor the Report itself, examined or discussed [the TEB member] or any alleged bias in favor of Wexford-CACI or against BAE. In fact [the name of the TEB member], the words "Wexford-CACI" and "BAE" do not appear anywhere in the Report." Agency Request for Partial Dismissal, Attach. 5, Decl. of Deputy Inspector General, DODIG (June 16, 2014), at 1.

With regard to BAE's second allegation--that the TEB member was formally reprimanded by the Director of JIEDDO as a result of the investigation and report--the agency responded with a declaration from the director of JIEDDO, that stated: "As the Director of JIEDDO, I am aware of [the TEB member's] position as Chief, Special Operations Branch, Mission Integration Division," and "I have not discussed with him any aspects related to Wexford-CACI's current contract the incumbent contract to the protested procurement." AR (July 28, 2014), Attach. 1, Decl. of Director of JIEDDO (July 23, 2014), at 1. In addition, the JIEDDO Director stated the following specific refutation of the protester's allegations:

I have never met with [the TEB member] in my office. I have never . . . discuss[ed] his relationship with Wexford-CACI or reprimand[ed] him. I am familiar with the contents of [the DODIG report]. [The TEB member] is not mentioned anywhere in the report, by name or otherwise. I have never discussed the DODIG Report with [the TEB member] and have not reprimanded him, either formally or informally, about its contents. I have never discussed any matters concerning preferential treatment of Wexford-CACI, or for conduct evidencing bias toward Wexford-CACI, and have not reprimanded him, formally or

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(...continued)

Photocopy & Research Servs., B-278698, B-278698.3, Mar. 4, 1998, 98-1 CPD ¶ 69 at 4.

informally, for the same. I have never discussed with [the TEB member] his handling of issues on Wexford-CACI's current contract, the incumbent contract to the protested procurement, and have not reprimanded him formally or informally, for the same.

Id.

The agency also provided a declaration from the TEB member's direct supervisor, which further supported the statements of the JIEDDO director. The direct supervisor stated that he has "full knowledge of all personnel actions pertaining to [the TEB member]," and states that the TEB member "has not been reprimanded, counseled, nor had any other adverse action taken against him, formally, or informally, by me, the Deputy Director for Operations & Intelligence, or the Director, JIEDDO, concerning [the DODIG report]. . . . or concerning any preferential treatment of Wexford-CACI or for conduct evidencing any bias in favor of Wexford-CACI." AR, Attach. 1, Decl. of J2/Chief of Mission Integration Division, JIEDDO (July 1, 2014), at 1.

Finally, the agency provided a declaration from the TEB member himself, which also stated that he "never met with [the Director of JIEDDO] in his office" and that he has "never been reprimanded, either formally or informally, by [the Director of JIEDDO]." AR (July 28, 2014), Attach. 2, Decl. of TEB Member (July 22, 2014), at 1. The TEB member also stated that he has "never been reprimanded, either formally or informally, by anyone, for preferential treatment of Wexford-CACI, or for conduct evidencing bias toward Wexford-CACI," or for his "handling of issues on Wexford-CACI's current contract, the incumbent contract to the protested procurement." Id.

With regard to BAE's third assertion--that the TEB member relaxed performance specifications for Wexford-CACI in its incumbent contract, and allowed Wexford-CACI to submit deliverables without using a required quality control process--the agency provided a declaration from the TEB member, which stated that "[d]uring its current contract performance, specifications were not relaxed for Wexford-CACI, nor was Wexford-CACI allowed to submit deliverables without using a required quality control process," and that "Wexford-CACI's products have not been judged by SETA [systems engineering and technical assistance] contractors as failing to meet AQL [acceptable quality limit] standards on its current contract." Id.

In sum, BAE has failed to produce credible evidence of bias or bad faith on the part of the TEB member or any other agency officials. Although the protester submitted a declaration in support of its allegations, where, as here, each of the alleged statements exhibiting bias have been reasonably refuted by the agency, we conclude that the declarations cited by the protester do not establish bias on the part of the agency. See Prose, Inc., B-259016, Feb. 28, 1995, 95-1 CPD ¶ 123 at 6-7.

In addition, to the extent BAE attempts to infer bias based on the evaluation record, we will not attribute bias in the evaluation of proposals on the basis of inference or supposition. TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37 at 4. Here, as discussed above, the record establishes the propriety of the agency's evaluation of BAE's proposal as technically unacceptable and ineligible for award. Accordingly, there is no basis to conclude that the evaluation of the offerors' proposals was tainted by bias or bad faith on the part of the evaluators.

The protest is denied.

Susan A. Poling  
General Counsel