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Washington, DC 20548**

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## Decision

**Matter of:** P3I, Inc.; Quantech Services, Inc.

**File:** B-405563.4; B-405563.5; B-405563.6; B-405563.7

**Date:** August 6, 2015

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C. Joel Van Over, Esq., and Alexander B. Ginsberg, Esq., Pillsbury Winthrop Shaw Pittman LLP, for Abacus Technology Corporation, the intervenor.

Marvin Kent Gibbs, Esq., Department of the Air Force, for the agency.

Charles W. Morrow, 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 that the agency's evaluation of the realism of the protester's and awardee's proposed cost was unreasonable is denied where the agency's evaluation was reasonable and supported by the record.
  2. Protest that the agency conducted an improper evaluation of the offerors' past performance records is denied where the record reflects that offerors were assigned the same ratings based on the relevance and quality of their past performance records.
  3. Protest that the agency conducted misleading and unequal discussions is denied where the record reflects that the protester was not misled during discussions but chose to increase its proposed costs based on its own business judgement.
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### DECISION

P3I, Inc., of Hopkinton, Massachusetts, and Quantech Services, Inc., of Rockville, Maryland, protest the award of a task order to Abacus Technology Corporation, of Chevy Chase, Maryland, under request for proposals (RFP) No. FA8721-10-R-0002, issued by the Department of the Air Force, for engineering and technology

acquisition support services (ETASS).<sup>1</sup> P3I and Quantech both challenge the Air Force's evaluation of proposals and best value determination. In addition, Quantech also challenges the propriety of discussions.

We deny the protests.

## BACKGROUND

The RFP was issued on June 29, 2011, as a small business set-aside. See Agency Report (AR) (P3I, Quantech) at 2; Contracting Officer's (CO) Statement (P3I, Quantech) at 3-4.<sup>2</sup> The solicitation anticipated award of a follow-on contract for ETASS (ETASS II), which would be managed by the agency's Air Force Life Cycle Management Center (AFLCMC) to support the Center's main operating location at Hanscom Air Force Base, its geographically separated units and its other operating locations.<sup>3</sup> See RFP § J, attach. 1, at 1. Under this contract, AFLCMC provides support to three directorates through the solicitation of separate task orders. At issue in this protest is the task order for the Control and Communications Infrastructure and Networks (C3I&N) Directorate.<sup>4</sup>

The RFP contemplated the award of multiple ID/IQ contracts for engineering and technology support services under which awardees would compete for task orders to support the AFLCMC's directorates. See CO Statement (P3I, Quantech) at 3. As relevant here, the RFP also incorporated a request for task order proposals (RFTOP) for the C3I&N directorate. Offerors were required to submit a separate

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<sup>1</sup> The awarded value of the task order at issue exceeds \$10 million. Accordingly, this procurement is within our jurisdiction to hear protests related to the issuance of orders under multiple-award indefinite-delivery/indefinite-quantity (ID/IQ) contracts. 10 U.S.C. § 2304(e)(1)(B).

<sup>2</sup> The agency provided separate reports for each protest; the tabs of both ARs refer to the same document. References to page numbers in the record are to the numbers added by the agency to each document.

<sup>3</sup> Services being procured through the contract included: engineering and technical research, support of engineering tools, development and presentation of engineering tools training, development and sustainment of engineering tools, data collection and analysis, training in support of development, acquisition, integration, test, deployment, and sustainment of command and control (C2) systems in support of research and development and production activities. See CO Statement (P3I, Quantech) at 3-4.

<sup>4</sup> The other directorates are the Battle Management Directorate and the Business and Enterprise Systems Directorate.

proposal for this work, which was to be evaluated under separate criteria and awarded at the same time as the ID/IQ contract. Id. at 4. Initially, the Air Force awarded five ID/IQ ETASS II contracts on October 15, 2012, to Abacus; Spectrum S4, LLC; Odyssey Systems Consulting Group; P3I; and Enterprise Information Services, Inc. See AR (P3I, Quantech) at 2. The agency also awarded Abacus the C3I&N task order. On October 29, Quantech filed a protest (B-405563.2) challenging the awards of the ID/IQ contracts, and P3I filed a protest (B-405563.3) challenging the award of the task order to Abacus. We dismissed the protests as academic following the agency's decision to take corrective action, which included reevaluating the offerors' proposals.

On August 30, 2013, the Air Force issued RFP amendment No. 0007, which also incorporated the RFTOP for the C3I&N Directorate.<sup>5</sup> The RFTOP contemplated a task order with seven contract line items (one fixed-price line item and six cost-plus-fixed-fee line items), for a base year with two 1-year options.<sup>6</sup> While the RFP contemplated awarding a minimum of five ID/IQ contracts, the C3I&N task order was to be issued to only one of the ID/IQ contract holders on a best-value basis. To be selected for an ID/IQ contract, the RFP stated that an offeror's proposal must (1) conform to the solicitation's requirements (including all stated terms, conditions, representations, certifications, and all information required by Section L); (2) be technically acceptable; (3) provide evidence of past performance that results in a rating of satisfactory or better confidence; and (4) be among the lowest-priced (cost/price) offerors. RFP § M at 1.

The RFP included three evaluation factors: technical acceptability, cost/price, and past performance. Id. at 8-11. The technical acceptability factor contained criteria for the evaluation of the proposals for both the ID/IQ contract and the task order. Id. at 4-6. The RFP required offerors to submit cost/price information for the proposed C3I&N task order; the RFP provided for consideration of cost/price for the ID/IQ contract and task order. See RFP § L at 4; § M at 6-7. The past performance factor was applicable to the evaluation of both the ID/IQ contract and task order, but

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<sup>5</sup> The Air Force issued three additional amendments to the RFP, which included the RFTOP. Amendment 9 served as the basis for the competition. All references to the RFP in the decision are to the amended RFP, unless otherwise noted.

<sup>6</sup> These line items corresponded with seven divisions within the C3I&N Directorate to be supported under the task order. The fixed-price CLIN was for special programs (known as HNJ), and the six cost-plus-fixed-fee CLINS were for: space, aerial and nuclear networks (known as HNA); crypto and cyber systems (known as HNC); C3I infrastructure (known as HNI); family of beyond line of sight terminals (known as HNS); acquisition intelligence supportability (known as INH); and capability planning (known as XZC). See RFTOP at 35-42.

offerors were only required to submit information relevant to the performance of the ID/IQ contract. See RFP § L at 17. For purposes of issuance of the task order, the past performance factor was approximately equal to cost/price with slightly more weight attached to the cost/price factor. RFP § M at 1.

As relevant here, the technical acceptability factor was comprised of three subfactors applicable to the evaluation of the task order: (1) C3I&N task order transition plan, (2) C3I&N task order management plan, and (3) C3I&N task order technical capability approach. For purposes of the evaluation of these subfactors, the RFP stated that the transition plan subfactor would be met when the offeror's proposed plan is (a) adequate and maintains continuity of services with minimal disruption to the customer and (b) identifies the resources, appropriate skill mixes, processes and schedule required to meet the C3I&N resource capability requirements at the start of the task order. Id. at 4. The RFP stated the management plan subfactor would be met when, among other things, the offeror's proposed plan demonstrated an efficient administration and executable approach for overall management of the work effort; demonstrates how the offeror will obtain, initially and continuously train, and certify qualified resources in a timely manner; and demonstrates how the offeror will hire and allocate resources to known requirements and emerging requirements. Id. at 5. The RFP stated that the technical capability subfactor would be met when, among other things, the offeror's plan demonstrates an adequate understanding of the C3I&N task order technical requirements and includes appropriate labor/skill categories to those requirements. Id. at 5-6. The RFP further stated that technical acceptability would be evaluated on an acceptable (pass)/unacceptable (fail) basis and further explained that an unacceptable subfactor assessment would render a proposal unawardable Id. at 2-3.

With regard to cost, the RFP stated that the cost/price proposal must clearly demonstrate and describe an effective and efficient approach for accomplishing the stated requirements in the C3I&N task order performance work statement requirements. Id. at 6. The RFP further stated that cost/price would be evaluated using one or more of the techniques in Federal Acquisition Regulation (FAR) § 15.404-1 to determine if the proposed costs were reasonable and realistic; and that the evaluation for realism would consider the extent to which the offeror's proposed costs indicated a clear understanding of the requirements, whether the proposal reflects a sound approach to satisfying the requirements, and whether the proposed labor escalation and indirect factors are reasonable. See id. at 6-7. In this regard, Section L required cost/price proposals to be submitted on a cost format worksheet, keyed to each division within the C3I&N Directorate and to include a basis of estimate (BOE) providing the rationale, estimating methodology, and historical basis used to derive the proposed labor estimates to support the proposed costs for each of the performance requirements as they relate to each of the programs in the C3I&N performance work statement. See RFP § L at 15-17. The RFP explained that a government estimate of most probable cost (GEMPC) of the

offeror's proposed cost would be prepared to evaluate realism and stated that a significant difference between the offeror's proposed cost and the GEMPC would be considered an indicator that the offeror does not understand the requirement and would be reflected in the government's realism analysis. See RFP § M at 6-7. The RFP also stated that the GEMPC, not the offeror's proposed costs, would be used for purposes of determining the best value. Id.

To evaluate past performance, the RFP stated that the agency would consider an offeror's past work record to assess the government's confidence in the offeror's probability of successfully performing the ETASS II work.<sup>7</sup> The RFP further stated that the evaluation would consider the offeror's recent and relevant past performance record, from the standpoint of quality, focusing on performance relevant to ETASS II. See id. at 9-11. In this connection, the RFP stated that to be considered recent, the past performance must be on-going or must have been performed within the past five years, and that more recent work would have a greater impact on the confidence assessment than less recent work. Id. at 9. The RFP explained that to determine relevancy, consideration would be given to the work performed by the offeror, joint ventures, subcontractors, and/or teaming partners. The RFP stated that a relevancy determination of the offeror's recent past performance work would be made, resulting in a determination of highly relevant, relevant, somewhat relevant or not relevant. See id. at 9-10. The highly relevant rating was reserved for past performance most similar to the ETASS II requirement.

Ten offerors, including P3I, Quantech and Abacus, submitted proposals in response to the RFP by the closing date of September 30, 2013. A source selection evaluation team (SSET) evaluated the proposals, which resulted in the inclusion of all 10 offerors in the competitive range. See CO Statement (P3I, Quantech) at 10. The contracting officer conducted several rounds of discussions with offerors between January 30, 2014, and October 3, 2014. Id. The agency received final proposal revisions from offerors on October 17. The SSET found all offerors to be technically acceptable.

Based on the results of the competition, the SSET, and source selection advisory council (SSAC), recommended that the source selection authority (SSA) award ID/IQ contracts to all 10 offerors. CO Statement (P3I, Quantech) at 11. After considering the merits of each proposal, the SSA concurred and selected all 10 offerors for award. See AR, Tab 24, Source Selection Decision Document (SSDD), at 1-2. The protests here do not concern the award of these ID/IQ contracts.

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<sup>7</sup> The confidence assessment ratings were substantial confidence, satisfactory confidence, limited confidence, no confidence, and unknown confidence. Id. at 9.

The SSET, and SSAC, also recommended that the SSA issue the C3I&N task order to Abacus. The evaluation ratings pertinent here were as follows:

<b>Offeror/ Price Rank</b>	<b>Past Performance</b>	<b>Proposed Cost/Price</b>	<b>Evaluated Cost/Price</b>
1. Abacus	Substantial Confidence	\$61,483,934	\$69,238,360
3. Offeror 3 <sup>8</sup>	Substantial Confidence	\$66,024,845	\$71,649,625
4. Offeror 4	Substantial Confidence	\$65,458,417	\$71,873,092
5. P3I	Substantial Confidence	\$65,730,078	\$74,042,144
6. Quantech	Substantial Confidence	\$73,487,104	\$76,159,132

See AR, Tab 24, SSDD, at 5.

The SSA selected Abacus for the C3I&N task order, as the best value. See id. at 4-10. In this regard, the SSA compared the past performance records of Abacus and Offeror 3, which the SSA considered to be the two most highly-rated offerors based on their past performance ratings and cost/price; as discussed below, the SSA also considered the past performance records of the other offerors with a higher cost/price. Id. at 9. The SSA also concluded that a more in-depth scrutiny of the realism and technical acceptability of Abacus’ proposal was required because of the magnitude of the agency’s cost realism adjustments. Id. at 5. Based on a review of the merits of Abacus’ proposal, the SSA concluded that Abacus submitted a technically acceptable approach, and that the SSET appropriately adjusted the proposal to account for potential risk; that its approach was aggressive in reducing costs to the government; and that its proposed use [DELETED],<sup>9</sup> the composition of the Abacus team, and Abacus’ strong past performance record demonstrated that its proposal was realistic, and that the offeror understood the requirements and possessed the competence to perform the task order. Id. at 8. Taking into account Abacus’ past performance, and its lowest-proposed cost/price, the SSA found that Abacus’ proposal afforded the Air Force the “best opportunity to drive the Program Management Offices to lower costs with a reasonable expectation of delivering the

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<sup>8</sup> The offeror ranked No. 2 was found ineligible for this task order due to an organizational conflict of interest. See AR, Tab 24, SSDD, at 8-9.

<sup>9</sup> [DELETED] See AR, Tab 24, SSDD, at 5.

required performance capability while still having the resources available to increase capability if needed.” Id. at 10. The SSA selected Abacus for the task order on April 20, 2015. These protests followed.

## P3I’S CHALLENGES

P3I argues that the Air Force’s evaluation of the offerors’ past performance was unreasonable, and that the Air Force unreasonably evaluated the realism of the protester’s proposed cost. P3I also challenges the agency’s evaluation of the realism of Abacus’ proposed costs. For the reasons discussed below, we find no basis to sustain the protest.

### Past Performance

First, P3I argues that the Air Force improperly evaluated offerors’ past performance. Specifically, P3I argues that the agency unreasonably assigned Abacus, Offeror 4, and Offeror 5, the same past performance rating of substantial confidence as P3I, despite differences in their respective past performance records. The protester argues that it was the only offeror with highly relevant<sup>10</sup> past performance and that the Air Force discounted the record of its subcontractor, contrary to the terms of the solicitation.

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; National Beef Packing Co., B-296534, Sept. 1, 2005, 2005 CPD ¶ 168 at 4. In addition, the relative merits of an offeror’s past performance information is generally within the broad discretion of the contracting agency. See Paragon Tech. Group, Inc., B-407331, Dec. 18, 2012, 2013 CPD ¶ 11 at 5. A protester’s disagreement with the agency’s judgment does not establish that an evaluation was unreasonable. FN Mfg., LLC, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 7.

For past performance, P3I submitted five contract references, which the SSET reviewed, along with a sixth reference, which P3I omitted from its initial proposal. See AR, Tab 22, Proposal Analysis Report (PAR), at 189. These contracts ranged in value from \$4.8 million to \$113.2 million. The agency concluded that all of the

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<sup>10</sup> The RFP defined highly relevant as past/present performance efforts involving the same magnitude of effort and complexity as this solicitation. RFP § M at 10.

references were recent, four were relevant, and two were somewhat relevant.<sup>11</sup> Also, based on review of the quality, the evaluators assigned exceptional ratings to all of the references, except one which received a very good rating. Id. The evaluators also considered 40 additional contract references that were not identified by the protester in its proposal but were performed by its teaming partners.<sup>12</sup> Of these references for the protester's contracting team, six were considered by the evaluators; four were rated highly relevant, and two were rated relevant. Id. at 189-90. Of these, five received exceptional quality ratings, and one a very good rating. Id. Based on this record, the evaluators assigned P3I's proposal a substantial confidence past performance rating. Id. at 190.

P3I argues that the Air Force unreasonably assigned Abacus, and the intervening offerors, the same past performance rating of substantial confidence as P3I, despite differences in their respective past performance records. The protester argues that it should have been the only offeror to be assigned a substantial confidence rating because its performance record included the highest number of highly relevant contracts, based primarily on the number of highly relevant ratings for its teaming members. We find no merit to this argument.

The RFP's evaluation scheme did not require a substantial confidence rating to be assigned only to the proposal with the most highly relevant contracts. Instead, the evaluation factor stated that the confidence assessment would consider not just the relevancy of contracts but, the recency, relevancy and quality of the work performed, notwithstanding the greater impact of more recent and relevant past performance. See RFP § M at 8-10.

The evaluators assigned substantial confidence ratings to Abacus, as well as the other intervening offerors, because each offeror's past performance supported ratings of substantial confidence based on the three considerations discussed above--recency, relevancy and quality of the work. See AR, Tab 22, PAR, at 178-200. For example, the record reflects that the evaluators reviewed six contracts for Abacus which ranged in value from \$689 thousand to \$115.4 million.

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<sup>11</sup> The RFP defined relevant as past/present performance effort involved much of the magnitude of effort and complexity that this solicitation requires and somewhat relevant as past/present performance effort involved some of the magnitude of effort and complexity that this solicitation requires. RFP § M at 10.

<sup>12</sup> As discussed above, the RFP provided that in the past performance confidence assessment consideration also would be given to work performed by the joint ventures, subcontractors, and/or teaming partners. See RFP § M at 9-10. The RFP also further explained that the evaluation would consider information provided by the offeror and information that the agency obtained from other sources. Id. at 8.

The evaluators determined that four were relevant and two were somewhat relevant. Also, the evaluators rated four of them exceptional, one very good, and one satisfactory. Id. at 178. The agency also considered 21 additional contracts, but found that none were relevant or higher as compared to the ETASS II effort. The evaluators determined that in light of Abacus' performance record--with satisfactory or better quality of performance and no adverse past performance--a substantial confidence rating was warranted. Id. While the protester argues that only its past performance record merited a substantial confidence rating, the RFP scheme did not require such a result.

P3I also argues that the Air Force's award decision was flawed because the SSA considered only the adjectival ratings for the past performance factor, and did not consider the relative merits of the offerors' past performance. The SSA, however, specifically compared the past performance of Abacus to Offeror 3 in determining that Abacus' proposal provided the best value to the government under the cost/price and non-cost/price factors. AR, Tab 24, SSDD, at 9. The SSA found that Abacus possessed a record of high quality performance providing engineering support to the C3I&N directorate, and noted that the awardee's contract references were relevant, with "high quality ratings." Id. The SSA noted that the awardee's references were for efforts that were "similar in complexity as the C3I&N task order, but not quite as large" and that Abacus "showed its ability to manage and perform contracts much larger than the C3I&N task order." Id. In contrast, the SSA found that although Offeror 3's contract references were relevant, they were for acquisition program management support rather than engineering support. Id.

In addition to these two offerors, the record reflects that the SSA also considered the past performance of the other offerors with higher cost/prices, in concluding that Abacus' proposal provided the best value. See id. The SSA found that the other offerors also had past performance with varying degrees of advantages, but that no other higher-cost/priced offeror's past performance record showed experience with contracts of sufficient complexity and size as compared to the C3I&N task order, and with sufficiently-high relevance and ratings quality, to offset Abacus' evaluated cost advantage. Id. at 9; see also AR, Tab 22, PAR, at 189-90. On this record, we find no basis to conclude that the agency relied solely on the adjectival ratings assigned to the offerors' past performance, or that the agency failed to consider the relative merits of the offerors' past performance. In sum, we find no basis to conclude that the agency unreasonably evaluated the past performance of P3I or the other intervening offerors.

### Cost Realism

Next, P3I argues that the Air Force unreasonably evaluated the realism of P3I's and Abacus' proposed costs. Specifically, the protester argues that the Air Force unreasonably increased its proposed costs to perform the work for the HNI, HNC and HNA divisions. Also, the protester argues that the agency failed to upwardly

adjust Abacus' proposed costs for lacking understanding of the requirements. For the reasons discussed below, we find no merit to the protester's challenge to the evaluation of its proposed costs, and also conclude that the protester is not an interested party to challenge the evaluation of the awardee's proposed costs.

When an agency evaluates a proposal for the award of a cost-reimbursement order, as was required here, an offeror's proposed estimated costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. See FAR §§ 15.305(a)(1), 15.404-1(d); Palmetto GBA, LLC, B-298962, B-298962.2, Jan. 16, 2007, 2007 CPD ¶ 25 at 7.<sup>13</sup> Consequently, the agency must perform a cost realism analysis to determine the extent to which an offeror's proposed costs are realistic for the work to be performed. FAR § 15.404-1(d)(1). An agency is not required to conduct an in-depth cost analysis, or to verify each and every item in assessing cost realism; rather, the evaluation requires the exercise of informed judgment by the contracting agency. FAR § 15.404-1(c); Cascade Gen., Inc., B-283872, Jan. 18, 2000, 2000 CPD ¶ 14 at 8. Further, an agency's cost realism analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the rates proposed are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation. SGT, Inc., B-294722.4, July 28, 2005, 2005 CPD ¶ 151 at 7. Our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonably based and not arbitrary. Jacobs COGEMA, LLC, B-290125.2, B-290125.3, Dec. 18, 2002, 2003 CPD ¶ 16 at 26.

For purposes of the cost realism evaluation, the agency developed an independent government cost estimate, based on trends in each program over 3 years. See AR, Tab 22, PAR, at 218. The agency also developed an estimate of the expected number of FTEs (full time equivalent) for various resourcing approaches (*i.e.*, program dedicated personnel; full matrix organizational support; and hybrid mix of dedicated and matrixed personnel), as well as an expected skill mix for each of the resourcing approaches to support the requirements of the divisions, as well. Id. To determine the GEMPC for each offeror's proposed costs, the evaluators considered each offeror's individual cost elements, including skill mix, hours, and resourcing

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<sup>13</sup> We note that the RFTOP contemplated a competition among ID/IQ contract holders, resulting in the issuance of a task order. While generally these competitions are governed by FAR part 16 and not FAR part 15, here the solicitation expressly required a cost realism analysis in accordance with FAR § 15.404-1. See RFP § M at 6. Thus, our Office will review such task order competitions to ensure that the competition is conducted in accordance with the solicitation, here FAR Part 15, and applicable procurement laws and regulations. See CACI Techs., Inc., B-409147, B-409147.2, Jan. 27, 2014, 2014 CPD ¶ 44 at 4.

approach. See id. at 124. The evaluators also considered direct labor rates, indirect labor rates, and escalation rates. Id. The rates were compared against rates for the ETASS I contract, as well as benchmarks from national statistics databases. In this connection, the evaluators adjusted each offeror's labor hours to account for differences between the offeror's proposed labor hours and the government's expected labor hours, based on the government's estimate of hours. Id.

P3I contends that the Air Force's evaluation of its proposed costs for the HNI, HNC, and HNA divisions was unreasonable because the agency increased its FTEs, labor hours, and costs, for this work without recognizing that the protester's skill mix allocation was based on [DELETED] than the skill mix being used by the agency to evaluate costs, or being proposed by Abacus. See Protester's Comments (June 8, 2015), at 2-6. The protester argues that the agency should have recognized the efficiency of its approach by not upwardly adjusting the FTEs; in the alternative it argues that the agency should have reallocated its skill mix to match the government mix of junior, mid-level, and senior personnel. The protester maintains that either approach would have resulted in a lower GEMPC for P3I than Abacus' and the GEMPC of the intervening offerors.

Based on our review of the Air Force's evaluation of the realism of P3I's and Abacus' costs, we find no basis to conclude that the agency's evaluation was unreasonable. In evaluating cost realism, we have recognized that an agency is required to consider the realism of a firm's proposed costs in light of the firm's unique technical approach. See CACI Techs., Inc., supra, at 4.

The record reflects that the Air Force made reasonable adjustments to each offeror's proposed FTEs and costs to perform the work for these divisions consistent with each offeror's unique technical approach. See AR, Tab 22, PAR at 218, 221, 235, 239. For example, the record reflects that with respect to the upward adjustment that was made to P3I's FTEs for the HNA Division, the evaluators found P3I's more [DELETED] mix technically acceptable, and appropriate for the protester's approach of [DELETED]. Id. at 221. However, the evaluators concluded that P3I's proposal to [DELETED] in option years 1 and 2 was unrealistic because resource needs in the HNA Division, based on the agency's review of the program and requirements, indicated that FTEs moved in a trend upward in the base year and then remained flat during option years. Id. Similarly, and contrary to the protester's assertions, the record reflects that the evaluators credited P3I's proposal to use [DELETED] with creating efficiencies, noting that for the HNI Division the [DELETED] would provide more efficiencies. Id. at 225. Notwithstanding this conclusion, the evaluators nevertheless found that P3I's FTEs still should be upwardly adjusted to account for contingencies and risks that might arise during contract performance. Id. The record reflects that the technical team found that P3I's reliance on its [DELETED] for reducing staff may overstate the

possibility for efficiencies by not accounting for current staffing practices, such as that the HNI Division is already a heavily-matrixed organization. Id. at 117.

As noted by the protester, Abacus proposed to staff these same divisions with [DELETED]. The evaluators also found that Abacus' proposal offered a viable technical approach for the HNA Division, and proposed certain efficiencies. See id. at 238. Nonetheless, the evaluators also concluded, as they did with P3I's proposal, that Abacus' FTEs should be adjusted consistent with its proposed technical approach, to account for contingencies and risks if Abacus' projected efficiencies end up lower than anticipated. Id. On this record, we find that the Air Force's cost realism evaluation was reasonable.

Finally, P3I argues that the Air Force unreasonably evaluated the realism of other areas of Abacus' proposed costs. As discussed above, we conclude that the agency's evaluation of past performance, and the realism of P3I's proposed costs, was reasonable. Based on these evaluations, we conclude that P3I is not an interested party to argue that the agency should have made upward adjustments to Abacus' evaluated costs.

Under the bid protest provisions of the Competition in Contracting Act, 31 U.S.C. §§ 3551-3556, only an "interested party" may protest a federal procurement. That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. Bid Protest Regulations, 4 C.F.R. § 21.0(a)(1). A protester is not an interested party where it would not be in line for contract award were its protest to be sustained. Resource Title Agency, Inc., B-402484.2, May 18, 2010, 2010 CPD ¶ 118 at 9. Here, the record reflects that there were two intervening offerors, Offeror 4 and Offeror 5, who each had a lower evaluated cost/price than P3I and the same substantial confidence past performance rating. Because we conclude that the Air Force's evaluation of past performance, and the realism of P3I's proposed costs, was reasonable, we find that P3I is not an interested party to pursue the remaining challenge to the agency's evaluation of the realism of Abacus' proposed costs. Even if the protester's arguments concerning the evaluation of Abacus' costs had merit, the protester would not be in line ahead of the other offerors identified by the agency in the SSD.

## QUANTECH'S CHALLENGES

Quantech argues that the Air Force conducted prejudicial and misleading discussions with the protester by causing it to significantly increase its cost/price. The protester also challenges the agency's evaluation of the realism of Abacus' proposed cost/price. Based on these alleged flaws, Quantech contends that the Air Force's award decision was unreasonable. Because, as discussed below, we conclude that the Air Force conducted appropriate discussions with Quantech, we find that even if Quantech's allegations concerning the propriety of the cost realism

evaluation had merit, it is not an interested party to pursue this challenge of the award.

Quantech argues that the Air Force conducted misleading discussions which caused the protester to raise its initial proposed cost/price of \$53,796,895 to a level that made it uncompetitive for the award. Specifically, the protester argues that, during discussions, the Air Force instructed Quantech to increase its staffing and cost/price by \$19.7 million (to \$73.5 million) to be considered realistic. Quantech argues that the agency's instructions were unreasonable because Abacus' proposed cost/price of \$61.4 million and evaluated cost/price of \$69.2 million were lower than the target the agency set for the protester during discussions. See Quantech Protest at 17, 19.

The regulations concerning discussions under FAR part 15, which pertain to negotiated procurements, do not, as a general rule, govern task and delivery order competitions conducted under FAR part 16, such as the procurement for the task order here. See NCI Info. Sys. Inc., B-405589, Nov. 23, 2011, 2011 CPD ¶ 269 at 9. In this regard, FAR § 16.505 does not establish specific requirements for discussions in a task order competition; nonetheless, when exchanges with the agency occur in task order competitions, they must be fair and not misleading. CGI Fed. Inc., B-403570 et al., Nov. 5, 2010, 2011 CPD ¶ 32 at 9. In our decisions discussing an agency's obligations in conducting discussions under FAR part 15, we have held that an agency may not mislead an offeror--through the framing of a discussion question or a response to a question--into responding in a manner that does not address the agency's concerns, or misinform the offeror concerning a problem with its proposal or about the government's requirements. Refinery Assocs. of Texas, Inc., B-410911.2, Mar. 18, 2015, 2015 CPD ¶ 116 at 6; Per Aarsleff A/S et al., B-410782 et al., Feb. 18, 2015, 2015 CPD ¶ 86 at 15.

The Air Force provided the following information to Quantech during discussions regarding the realism of its proposed staffing and cost/price:

GEMPC adjustments were made to your proposed Full Time Equivalent labor levels (FTEs) for the purpose of determining your proposal's Total Evaluated Price (TEP). The FTE adjustments and labor skill mix adjustments constitute the total GEMPC adjustments. The total GEMPC adjustment for your proposal is \$19.7M for a TEP of \$73.5M.

Analysis of your BOE indicates your estimated resourcing levels (FTEs and/or skill mix) were below the Government's expected minimally acceptable levels for the divisions based on your proposed support construct for the following C3I&N TO divisions: HNA; HNC; HNI; HNS; INH; and XZC. Your proposal failed to adequately justify the claimed efficiencies to substantiate the proposed resource levels

(FTEs and skill mixes). Adjustments to your proposed Division FTEs were factored into the GEMPC.

The difference between your proposed Cost/Price and the GEMPC may be considered an indicator that you do not understand the requirements and that any proposal that is evaluated as being unrealistically low or high in costs when compared to Government's expectations, such that the proposal is deemed to reflect an inherent lack of competence or an inherent failure to understand/comprehend the complexity and risks of the program may be rejected.

**Required Information:** Acknowledge that you will include the appropriate FTE levels; labor skill mix; and/or rationale as to the viability of your proposed resources to meet the performance requirements when your Final Proposal Revision is submitted.

AR, Tab 14, Evaluation Notice (EN), at 93. The Air Force also conducted a telephone conference with the protester concerning this matter.<sup>14</sup> The agency then requested final proposals from the offerors, including Quantech. The agency included the following in its request from Quantech:

- a. As a reminder, the following outstanding EN should be included in your FPR:
  - i. Analysis of your BOE indicates your estimated resourcing levels (FTEs and/or skill mix) were below the Government's expected minimally acceptable levels for the divisions based on your proposed support construct for the following C3I&N TO divisions: HNA; HNC; HNI; HNS; INH; and XZC. Your proposal failed to adequately justify the claimed efficiencies to substantiate the proposed resource levels (FTEs and skill mixes). (Reference EN QUA-EN-001).

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<sup>14</sup> The protester asserts that it was advised during this conference that it needed to increase its staffing and cost/price to be acceptable. See Quantech Protest at 2, 11. The agency official involved disputes this assertion. See CO Statement (Quantech) at 33. Although the record contains conflicting evidence, we need not resolve this dispute about the content of the conference call because the agency followed this call with the written statement set forth in its request for final proposal revisions (FPR). See AR, Tab 16, FPR Request, at 4.

- b. The Government anticipates you will either adjust your proposed resources or provide additional explanation of how you will accomplish the tasks with the resources proposed, or both.

AR, Tab 16, FPR Request, at 4.

In our view, the exchanges above do not demonstrate that Quantech was misled into raising its initial proposed cost/price by \$19.7 million. While the EN advises Quantech that its proposal fell below the government's expected minimally acceptable levels for the divisions, it does not state that its proposed resource levels were per se unacceptable. Rather, the EN advises the protester that its proposal failed to adequately justify claimed efficiencies to support the resource levels that it proposed. See AR, Tab 14, EN, at 93. Although the protester contends that, when read as a whole, it was reasonable for it to assume that it must raise its cost/price by \$19.7 million to be minimally acceptable, we disagree. As quoted above, the record reflects that both the EN and the agency's request for FPRs specifically advised Quantech that it could elect to provide additional information to explain how it could accomplish the tasks with the resources it proposed, adjust its resources, or both.

In this regard, an offeror's conclusion that it has failed to persuade an agency of the basis for its proposed staffing levels does not prevent the offeror from maintaining and further supporting its position in written submissions as the agency, in fact, requested it to do. First Info. Tech. Servs., Inc., B-405602, Dec. 1, 2011, 2011 CPD ¶ 261 at 10; SIMSHIP Corp., B-253655.2, Dec. 2, 1993, 93-2 CPD ¶ 293 at 5. If Quantech believed that its initial proposed resources (FTEs and skill mix) were reasonable, then the protester had the opportunity to explain its position to the agency. Rather than retaining its resource levels and providing the invited justification, Quantech apparently chose to raise its levels in its FPR. In sum, Quantech's decision to raise its resource levels constituted an exercise of its business judgment, which does not establish that the Air Force conducted misleading discussions. See Enterprise Info. Sys., B-401037.5, B-401037.6, Dec. 1, 2009, 2009 CPD ¶ 233 at 2; First Preston Housing Initiatives, LP, B-293105.2, Oct. 15, 2004, 2004 CPD ¶ 221 at 5.

In view of our conclusion that the Air Force did not engage in misleading discussions, we find that Quantech is not an interested party to pursue its remaining challenges regarding the propriety of the agency's cost realism evaluation of Abacus' proposed costs. As discussed above, a protester is not an interested party where it would not be in line for contract award were its protest to be sustained. See 4 C.F.R. § 21.0(a)(1); Resource Title Agency, Inc., supra.

Here, the record reflects that there were three intervening offerors with lower evaluated cost/prices than Quantech's, and with the same substantial confidence past performance rating as Quantech's: Offeror 4, Offeror 5, and P3I. See AR,

Tab 24, SSDD, at 5. The protester does not challenge the Air Force's evaluation of these intervening offerors' proposals. Accordingly, we find that Quantech is not an interested party to maintain its protests of the Air Force's cost realism evaluation of Abacus' proposal or the award decision.

In sum, we find that the record supports the Air Force's award to Abacus on the basis that it offered the best value, considering technical, cost/price, and past performance.

The protests are denied.

Susan A. Poling  
General Counsel