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## Decision

**Matter of:** Crowley Technical Management, Inc.

**File:** B-412690.2; B-412690.3

**Date:** May 12, 2016

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James Y. Boland, Esq., Dismas N. Locaria, Esq., and Nathaniel S. Canfield, Esq., Venable LLP, for the protester.

Craig S. King, Esq., Richard J. Webber, Esq., and Patrick R. Quigley, Esq., Arent Fox LLP, for Patriot Contract Services, LLC; and Timothy B. Shea, Esq., Nemirow, Hu & Shea PC, for Pacific-Gulf Marine, Inc., the intervenors.

Janis P. Rodriguez, Esq., and Ashley S. Amano, Esq., Department of Transportation, for the agency.

Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protester's assertion that it was entitled to a higher technical/management rating than any other offeror based on its greater experience under the prior contract is denied where the solicitation provided for evaluation of the offerors' technical understanding and approach to performing the contract requirements, and the agency reasonably concluded that the offerors' proposals were essentially equal in this regard.

2. Protest that agency considered the offerors' union affiliation as an unstated evaluation factor in making its source selection decision is denied where the record does not support the protester's allegation.

3. Protest that agency failed to properly consider allegedly unrealistic and unbalanced pricing is denied where the record shows that the awardee's prices were neither unrealistically low nor materially unbalanced, and the agency appropriately considered potential risks.

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### DECISION

Crowley Technical Management, Inc., of Jacksonville, Florida, protests the Department of Transportation, Maritime Administration's (MARAD) award of contracts to Patriot Contract Services (PCS), of Concord, California, and

Pacific-Gulf Marine, Inc. (PGM), of New Orleans, Louisiana, pursuant to request for proposals (RFP) No. DTMA91R140002 to provide ship management services. Crowley asserts that the agency misevaluated proposals under the technical/management evaluation factor, improperly considered the offerors' union affiliations in making its source selection decisions, and failed to properly evaluate PGM's price.

We deny the protest.

## BACKGROUND

In September 2014, the agency published the solicitation at issue, seeking proposals to provide ship management services for various vessels in the Ready Reserve Force (RRF) and National Defense Reserve Fleet (NDRF).<sup>1</sup> The solicitation sought proposals to provide operation and maintenance services for 48 ships, divided into 18 ship groups; offerors were permitted to submit proposals for some or all of the ship groups.<sup>2</sup> RFP at 172. The contractors (ship managers) will be required to maintain the ships in various states of readiness (R-status), as directed by MARAD.<sup>3</sup> For purposes of evaluation, the solicitation established a "notional" year comprised of a specified number of days in each of the various readiness conditions.<sup>4</sup> RFP at 194.

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<sup>1</sup> MARAD is responsible for the operation and maintenance of ships in the RRF and NDRF. The RRF and the NDRF provide support for the rapid deployment of U.S. military forces by transporting military equipment during an initial surge of U.S. forces deploying anywhere in the world. Agency Report (AR), Tab 1, RFP at 3. Secondary missions include responding to civil emergencies, supporting humanitarian relief missions, and providing sealift support to other government agencies. Id.

<sup>2</sup> The solicitation contemplated award of multiple fixed-price contracts (with limited cost-reimbursement items) for a 4-year base period and two 2-year option periods. RFP at 167. Offerors were required to submit fixed-price per diem rates for each vessel, by contract year. Id.

<sup>3</sup> For example, the solicitation defined the following 3 readiness conditions: reduced operational status (ROS)-5 (vessel may be moored at a commercial layberth and can be activated in 5 days); ROS-10 (vessel may be moored at a commercial or government layberth, and can be activated in 10 days); and RRF-10 (vessel has been deactivated, is in laid up status without a crew, but can be activated in 10 days.) Id. a 4-5.

<sup>4</sup> The notional schedule provided for 300 days at ROS-5; 20 days at ROS-10; 15 days at RRF-10; 25 days in operating status; and 5 days in a reduced operating status without crew. Id. at 194.

Section M of the solicitation provided for award on a best-value basis, establishing the following evaluation factors, listed in descending order of importance: price, past performance, and technical/management.<sup>5</sup> Id. at 197. In addition, section M advised offerors that: “the agency intends to award contracts to multiple offerors distributing the ships over the industrial base consistent with the agency’s statutory mission to foster and encourage a viable U.S. merchant marine of U.S. citizenship management companies.” Id.

Regarding evaluation under the most important evaluation factor, price, the solicitation provided that the agency would calculate total evaluated prices (TEP) for each ship group, based on the solicitation’s notional schedule, and that prices would be evaluated for reasonableness and realism.<sup>6</sup> Id. at 193. With regard to evaluation under the next most important factor, past performance, the solicitation provided that the agency would consider the relevance and quality of an offeror’s recent past performance (within the last 3 years) to make performance risk assessments.<sup>7</sup> Id. at 191-93. With regard to evaluation of the least important factor, technical/management, the solicitation established subfactors A through G,<sup>8</sup>

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<sup>5</sup> The solicitation provided that “[the] non-price factors when combined are approximately equal to the price factor; however, as proposals approach equality in the non-price factors, price shall become more important.” Id. at 197. The solicitation also contained minimum mandatory requirements regarding U.S. citizenship, prior experience as a vessel owner/operator, and available working capital, which were evaluated on a pass/fail basis. Id. at 170-71.

<sup>6</sup> The solicitation also required offerors to submit “economies of scale” (EOS) pricing--that is, differing prices depending on the total number of ships they were awarded. RFP at 184. In this regard, the solicitation established EOS pricing categories of: 1-2 ships; 3-4 ships; 5-6 ships; 7-8 ships; 9-10 ships; 11-12 ships; and greater than 12 ships. Id.

<sup>7</sup> In evaluating offerors’ past performance, the agency assigned ratings of excellent/highly confident, good/significant confidence, adequate/confidence, marginal/little confidence, poor/no confidence, or neutral. AR, Tab 13, Past Performance Evaluation Team Report, at 2.

<sup>8</sup> The subfactors were: (A) corporate ship management expertise, employee talent and experience, and vessel preventive maintenance planning; (B) expertise with the use of automated vessel management systems; (C) expertise in crewing to provide required vessel readiness; (D) effective management of concurrent activations; (E) logistics management; (F) business management/financial management; and (G) marine management systems. RFP at 190-91.

and provided that “[s]ubfactor A is twice as important as the remaining six (6) subfactors which are approximately equal in importance.”<sup>9</sup> Id. at 190.

In March 2015, initial proposals were submitted by 10 offerors, including Crowley, PCS, and PGM. Thereafter, the agency’s technical evaluation team (TET), past performance evaluation team (PPET), and price evaluation and realism team (PERT) evaluated the proposals, and determined that discussions should be conducted with all 10 offerors. Following discussions and the submission of final proposal revisions, Crowley’s, PCS’s and PGM’s proposals were evaluated under the non-price evaluation factors as follows:<sup>10</sup>

|         | Technical/Management | Past Performance            |
|---------|----------------------|-----------------------------|
| Crowley | Excellent            | Excellent/Highly Confident  |
| PCS     | Excellent            | Excellent/Highly Confident  |
| PGM     | Excellent            | Good/Significant Confidence |

AR, Tab 21, Source Selection Evaluation Board (SSEB) Report, at 7.

With regard to evaluation of price, the PERT performed various calculations for each of the 18 ship groups, considering the differing prices reflected in the offerors’ EOS pricing. The price evaluation established that Crowley’s proposed prices were the highest, or nearly the highest, for every ship group. AR, Tab 16A, PERT Report, at 4.

Thereafter, the evaluation teams submitted their reports to the SSEB. AR, Tab 13, PPT Report, Tab 15, TET Report; Tab 16A, PERT Report. The SSEB reviewed the evaluation reports, and prepared its own report for the source selection authority (SSA), making recommendations for awards to six offerors, including Crowley, PCS, and PGM. AR, Tab 21, SSEB Report. Specifically, the SSEB recommended the award of 8 ships (3 groups) to PCS; 6 ships (2 groups) to PGM; and 2 ships (1 group) to Crowley. Id. at 23.

The SSA reviewed the SSEB recommendations and made certain changes. First, the SSA added a seventh awardee, stating: “I decided that having one more offeror that supported the commercial industrial base contributed to increased readiness for

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<sup>9</sup> In evaluating proposals under the technical/management evaluation factor, the agency assigned ratings of excellent, good, satisfactory, marginal or unsatisfactory. AR, Tab 15, Technical Evaluation Team Report, at 2.

<sup>10</sup> The proposals of the other offerors, and the agency’s evaluation thereof, are not relevant to this protest and are not further discussed.

national sealift and thus reduces risk to and benefits the RRF program.”<sup>11</sup> AR, Tab 31, Source Selection Decision, at 6. Additionally, the SSA increased the SSEB’s recommendation regarding award to Crowley, adding 2 additional ships (1 additional group).<sup>12</sup> In this regard, the SSA acknowledged that award of the additional ships to Crowley “costs an additional \$4.04 Million or 0.57% . . . to the program over the SSEB Recommendation.” Id. at 5. Nevertheless, the SSA concluded that “[a]ward of two more vessels to [Crowley] further supports the industrial base consistent with the solicitation’s multiple award objectives and is worth the additional cost to leverage the commercial sector of the industrial maritime base that [Crowley] represents.” Id.

On January 22, 2016, the agency announced its award decisions, which included the award of 7 ships (3 groups) to PCS; 6 ships (2 groups) to PGM, and 4 ships (2 groups) to Crowley. AR, Tab 31, Source Selection Decision, at 9. Thereafter, Crowley filed this protest challenging the award of one of the 3 ship groups (group 07) awarded to PCS, and challenging the award of both ship groups (groups 04 and 14) awarded to PGM.

## DISCUSSION

Crowley protests that the agency misevaluated proposals under the technical/management evaluation factor, improperly considered the offerors’ union affiliations in making its source selection decisions, and failed to properly evaluate PGM’s price. As discussed below, none of Crowley’s allegations provides a basis to sustain its protest.

### Evaluation Under the Technical/Management Factor

Crowley first asserts that, because it “led the 10-year incumbent contract as the offeror managing the most ships,”<sup>13</sup> it was entitled to a higher technical/management evaluation rating than any other offeror, including PCS and PGM. Protest, Feb. 3, 2016, at 1, 9-10; Supp. Protest, Feb. 16, 2016, at 1, 7-11; Comments on AR, Mar. 28, 2016, at 1-2. In this regard, Crowley asserts that, even though its proposal received the highest technical/management rating, excellent, the agency failed to examine the relative merits of the proposals under the technical/management factor, noting that the solicitation provided for award on the

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<sup>11</sup> Crowley initially protested the award to the seventh offeror, but subsequently withdrew that protest.

<sup>12</sup> The two additional ships awarded to Crowley had been recommended for award to an offeror other than PCS or PGM.

<sup>13</sup> Crowley states that it managed 11 ships under the prior contract. Comments on AR, Mar. 28, 2016, at 1.

basis of a best-value tradeoff. Crowley further complains that, because the agency's evaluation documentation reflected a greater number of strengths in Crowley's proposal than in PCS's or PGM's proposals, the SSA was precluded from considering the three proposals to be essentially equal. Finally, Crowley asserts that, because the agency assigned the highest technical rating, excellent, to all of the proposals, the agency "effectively convert[ed] the procurement into an LPTA [lowest priced technically acceptable] basis of award."<sup>14</sup> Supp. Protest, Feb. 16, 2016, at 7-9.

The agency responds that the TET properly evaluated all of the proposals under the technical/management factor and that it properly rated all of the proposals as excellent. In this regard, the agency notes that PGM, PCS, and Crowley are all experienced ship managers and that, as prior ship managers for MARAD, they received day-to-day feedback on their performance, giving them each an in-depth understanding of MARAD's performance expectations and quality standards. The agency further notes that, during discussions, the agency identified various aspects of each offeror's proposal that needed to be addressed, and that each offeror's final proposal revisions responded to the issues identified. Consistent with the offerors' experience and their responses following discussions, the agency notes that its contemporaneous evaluation documentation reflected multiple strengths in each of the offerors' proposals. Accordingly, the agency maintains that the TET reasonably assigned technical/management ratings of excellent to each offeror's proposal and

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<sup>14</sup> In challenging the agency's technical/management evaluation, Crowley also asserts that the evaluation was flawed because the agency evaluated subfactor A as being twice as important as subfactors B through G combined. As noted above, the solicitation stated: "Subfactor A is twice as important as the remaining six (6) subfactors which are approximately equal in importance." RFP at 190. Crowley maintains that this provision can only be interpreted to mean that subfactor A was twice as important as each of the other subfactors individually. Crowley's assertion provides no basis to sustain its protest. At best, the solicitation is patently ambiguous as to whether subfactor A was to be twice as important as all of the other subfactors combined, or twice as important as each of the subfactors individually. A patent solicitation ambiguity must be protested prior to the closing date for submission of proposals. 4 C.F.R. § 21.2(a)(1). Where a patent ambiguity is not challenged prior to submission of proposals, we will dismiss as untimely any subsequent protest that is based on one alternative interpretation of the ambiguous provision. See, e.g., Pate Construction Co., Inc., B-410211, Nov. 17, 2014, 2014 CPD ¶ 341 at 4; U.S. Facilities, Inc., B-293029, B-293029.2, Jan. 16, 2004, 2004 CPD ¶ 17 at 10. Here, since Crowley did not challenge, or seek clarification of, the solicitation's ambiguity prior to submitting its proposal, it may not protest that matter at this time. This portion of its protest is dismissed.

that, upon reviewing the TET evaluation, the SSA reasonably concluded that the proposals were essentially equal under this factor.

The evaluation of proposals is a matter within the discretion of the contracting agency, since the agency is responsible for defining its needs and the best method of accommodating those needs. XLA Assocs., Inc., B-412333.2, Jan. 29, 2016, 2016 CPD ¶ 54 at 6. In reviewing an agency's evaluation, GAO will not reevaluate proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and with applicable statutes and regulations. Id. An offeror's disagreement with the agency, without more, does not render the evaluation unreasonable. Id.

Here, we find no basis to question the agency's evaluation under the technical/management factor, nor do we question the reasonableness of the SSA's determination that the proposals were essentially equal. First, Crowley's protest appears to be based on the erroneous perception that, under the technical/management evaluation factor, the agency was evaluating the amount of experience each offeror possessed. To the contrary, the solicitation directed offerors to discuss their understanding of, and methodology for accomplishing, the solicitation's requirements. RFP at 172. Accordingly, the fact that Crowley was the incumbent with the greatest number of ships under the prior contract did not in any way establish that Crowley submitted a technical/management proposal that was superior to the other proposals. Further, as the agency points out, all of the offerors were experienced in performing ship management services, and the agency's evaluation considered, and documented, multiple strengths for each offeror's proposal regarding their understanding and methodology for performing the solicitation requirements. On this record, we find nothing unreasonable in the agency's determination that the offerors' understanding of, and proposed methodologies to accomplish, the solicitation requirements were equally excellent qualitatively, notwithstanding Crowley's greater quantity of experience.

As noted above, our Office will not reevaluate proposals. Rather, we will review an agency's evaluation for reasonableness and compliance with the terms of the solicitation and applicable statutes and regulations. Based on our review here, we find nothing unreasonable in the agency's evaluation under the technical/management factor, nor do we question the SSA's related determination that the proposals were essentially equal. Crowley's protest assertions challenging the agency's technical/management evaluation are denied.

#### Union Affiliation

Next, Crowley asserts that the agency improperly considered the offerors' union affiliations in making its source selection decisions, and maintains that such consideration constituted application of an unstated evaluation factor. More specifically, Crowley notes that, under the incumbent contracts, the American

Maritime Officer's (AMO) union was affiliated with 28 ships, while the Marine Engineers' Beneficial Association (MEBA) was affiliated with 20 ships.<sup>15</sup> Protest, Feb. 3, 2016, at 11-12. Crowley complains that, although the award decisions here resulted in approximately half of the 48 ships changing ship operators, "there was a change in net union affiliation of only one ship"; that is, following the contract awards at issue here, "MEBA gained one ship for a total of 21, compared to 27 ships for AMO." Id. at 12. Crowley asserts that this limited net change in union affiliation establishes that "MARAD [was] under pressure to maintain the existing union balance" and that it "improperly took into account the union affiliation of the offerors when deciding how to allocate the award of the ship groups." Id. In making this assertion, Crowley notes that various agency documents, prepared during the source selection process, contained information reflecting the union affiliation of the potential awardees and/or tracking the total number of ships, by union affiliation. See AR, Bates 008-017, Briefing to SSA; Tab 23, Briefing to SSA, at 14; Tab 25, Award Calculator, at 2; Tab 26a, Email from SSEB, at 1, 4, 5; Tab 28, Decision Calculator, at 1-4; Tab 29, Briefing to Maritime Administrator, at 18; Tab 32, Email from SSA, at 1-13.

The agency responds that it did not consider union affiliation in making the contract awards but, rather, considered the stated evaluation factors--giving the greatest weight to the most important factor, price--along with the agency's need to distribute ships across the industrial base, as contemplated by the solicitation. At the hearing GAO conducted in connection with this protest,<sup>16</sup> both the SSA and the contracting officer testified that union affiliation was not a consideration in the evaluation or source selection decisions. See, e.g., Hearing Transcript (Tr.) at 37, 39, 54, 62-63, 64. Specifically, the SSA testified that the information regarding the union affiliation of potential awardees was monitored because of the potential impact that a crew change, necessitated by a change of union affiliation, would have on ship operation and readiness. Tr. at 56-57. The SSA further testified that he was aware that MARAD's leadership would want to know the award decisions' impact on union affiliation in order to, for example, anticipate the time a new crew would need to become familiar with the vessel, id. at 56-58; nonetheless, the SSA maintains that he did not consider that issue in making his source selection decisions. Id. at 67-68.

It is fundamental that an agency's evaluation of offerors' proposals must be reasonable and consistent with the evaluation scheme set forth in the solicitation. See, e.g., McGoldrick Constr. Servs., Corp., B-409252.2, Mar. 28, 2014, 2014 CPD

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<sup>15</sup> Crowley is affiliated with AMO. Protest, Feb. 3, 2016, at 12.

<sup>16</sup> In resolving this protest GAO conducted a hearing, on the record, at which testimony was obtained from the SSA, the contracting officer, and an SSEB representative.



¶ 114 at 6; Carothers Constr., Inc., B-403382, Oct. 28, 2010, 2010 CPD ¶ 268 at 6. Our Office will sustain a protest where the agency's evaluation and source selection decisions are inconsistent with the solicitation's stated evaluation criteria. See, e.g., DRS ICAS, LLC, B-401852.4, B-401852.5, Sept. 8, 2010, 2010 CPD ¶ 261 at 4-5.

Here, based on our review of the record, including the testimony provided during the hearing, we reject Crowley's assertion that the agency relied on the offerors' union affiliations as an unstated evaluation factor.

First, we note that PGM's union affiliation is AMO--the same as Crowley's. Accordingly, Crowley's protest challenging the award of ship groups 04 and 14 to PGM, based on this alleged application of an unstated evaluation factor fails to state a valid basis. Turning to the award to PCS of ship group 07 (the only other ship group challenged by Crowley's protest), we first note that the SSA repeatedly testified during the hearing that he did not consider the offerors' union affiliations as a factor in his source selection decision. See, e.g., Tr. at 37, 39, 54, 62-63, 64. To the contrary, the SSA maintained that the award of ship group 07 was based on PCS's lower evaluated price. See Tr. at 179.

In this context, we reviewed the agency's contemporaneous evaluation documentation which establishes that PCS's evaluated price for ship group 07 was \$46,258,576, compared to Crowley's evaluated price of \$49,893,311. AR, Tab 21, SSEB Report, at 19. Since the solicitation provided that price was the most important evaluation factor and, as discussed above, we have concluded that the SSA reasonably determined that PCS's and Crowley's proposals were otherwise essentially equal, we accept the SSA's testimony that the award of ship group 07 was based on PCS's lower evaluated price. Accordingly, we reject Crowley's assertion that the agency improperly considered union affiliation in awarding ship group 07 to PCS. Crowley's protest in this regard is denied.

#### Price Evaluation

Finally, Crowley asserts that the agency's evaluation of PGM's pricing was flawed. First, Crowley maintains that PGM's pricing was unrealistic and unbalanced in that PGM "intentionally lower[ed] its Year 4 pricing to take advantage of the fact that MARAD would use the pricing for that year to extrapolate pricing for the option years."<sup>17</sup> Comments on AR, Mar. 28, 2016, at 25. More specifically, Crowley notes that PGM escalated its proposed prices by approximately 2.5 percent per year in

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<sup>17</sup> As noted above, the solicitation contemplated a 4-year base performance period and two 2-year option periods. RFP at 167. Offerors submitted fixed prices for each ship, for each contract year of the base performance period. RFP at 181. The solicitation provided that the prices proposed for year 4 of the base performance period would be used for price evaluation of the option periods. RFP at 194.

the second and third years of the base performance period, but lowered its escalation rate to approximately 1 percent in year 4. Supp. Protest, Feb. 16, 2016, at 6. Accordingly, Crowley maintains that PGM's proposal should have been evaluated as unacceptable on the basis of its year-4 pricing, which Crowley asserts was unrealistic and unbalanced.

The agency responds that the lower escalation rate reflected in PGM's year-4 pricing resulted in reduced costs of approximately [redacted] per vessel per year from year 4 through the option years, or a total of approximately [redacted]. Contracting Officer's Statement, Mar. 18, 2016, at 17. Since PGM's TEP for the 6 ships was in excess of \$92 million, AR, Tab 31, Source Selection Decision, at 9, the agency maintains that the variation in PGM's year-4 pricing (resulting in a price reduction of less than 1 percent of its TEP) was not significant and did not render PGM's price either unrealistic or materially unbalanced. Id. at 16-17. The agency further notes that PGM's year-4 pricing was based on reductions to PGM's [redacted], which are not recoverable under the solicitation's cost-reimbursement items; accordingly, PGM's fixed-price year-4 pricing did not create any risk of higher costs for the agency. Id. Finally, the agency notes that Crowley's pricing was "more than 10% above PGM's TEP," and even if PGM had not offered the reduced escalation in year-4, Crowley's pricing would still have been approximately 8% higher than PGM's. Id. Accordingly, the agency maintains there was no potential prejudice to Crowley. Id.

Although price realism is not generally evaluated in awarding fixed-price contracts, since such contracts place the risk and responsibility for contract costs on the contractor, see OMV Med., Inc.; Saratoga Med. Ctr., Inc., B-281387 et al., Feb. 3, 1999, 99-1 CPD ¶ 52 at 5, an agency may provide for a price realism analysis in a solicitation to measure an offeror's understanding of the solicitation requirements, or to avoid the risk of poor performance from a contractor who is forced to provide services at little or no profit. See The Cube Corp., B-277353, Oct. 2, 1997, 97-2 CPD ¶ 92 at 4; Ameriko, Inc., B-277068, Aug. 29, 1997, 97-2 CPD ¶ 76 at 3. The nature and extent of an agency's price realism analysis are matters within the sound exercise of the agency's discretion. Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 5.

Here, the solicitation advised offerors that the agency would consider the reasonableness and realism of proposed prices, and "may determine that an offer is unacceptable if the prices proposed are materially unbalanced." RFP at 193, 195. Based on our review of the record, and the agency's responses to Crowley's assertions discussed above, we find no basis to question the reasonableness of the agency's conclusion that the reduced escalation reflected in PGM's year-4 pricing was insignificant, did not constitute unrealistic or materially unbalanced pricing, and, in any event, did not prejudice Crowley. Accordingly, Crowley's protest assertions regarding this matter are denied.

Finally, Crowley asserts that PGM's pricing was unreasonable and unbalanced with regard to its EOS 1-2 pricing,<sup>18</sup> again complaining that PGM's pricing should have resulted in rejection of its proposal. In this regard, Crowley notes that the agency considered PGM's EOS 1-2 pricing to be unreasonably high. See AR, Tab 21, SSEB Report, at 15. Accordingly, Crowley complains that the agency failed to properly consider the risk that the agency would have to pay unreasonably high prices if several of the ships awarded to PGM are removed from the program and the number ships that PGM is responsible for managing is reduced from 6 to 2.<sup>19</sup> Protester's Comments on AR, Mar. 28, 2016, at 26-29.

The agency responds that it did, in fact, consider this risk and documented that consideration in the SSEB report, which stated: "The program office has indicated that it does not believe there is any risk that the RRF program would eliminate even 2 of these 6 unique crane ships [awarded to PGM] from the fleet[,] let alone the 4 that would have to be eliminated to run the risk of paying PGM's markedly higher [EOS 1-2] prices." AR, Tab 21, SSEB Report, at 15. Similarly, at the hearing, the SSA testified that he discussed this matter with his technical program managers, and concluded there was "a high level of confidence that we're going to keep all six of those ships [awarded to PGM] in the program." Tr. at 29-31.

As noted above, the nature and extent of an agency's price evaluation is within the sound discretion of the procuring agency. Citywide Managing Servs. of Port Washington, Inc., supra. Here, it is clear that the agency considered, and documented, the potential risk associated with the high prices reflected in PGM's EOS 1-2 pricing, and concluded that such risk was minimal. Based on this record, we do not question the agency's consideration of, or determination regarding, PGM's EOS 1-2 pricing. Crowley's protest challenging the agency's price evaluation and risk assessment is without merit.

The protest is denied.

Susan A. Poling  
General Counsel

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<sup>18</sup> As discussed above, the offerors submitted EOS or "economy of scale" pricing based on the differing number of ships they might be awarded.

<sup>19</sup> Crowley also asserts that PGM's EOS 3-4 pricing was unreasonably high. The agency disagrees, noting that PGM's EOS 3-4 prices were lower than that of 3 other offerors, including Crowley. Supp. Contracting Officer's Statement, Apr. 6, 2016, at 1.