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Decision

Matter of: Logistics Management Institute

File: B-417601; B-417601.2; B-417601.3; B-417601.4

Date: August 30, 2019

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DIGEST

1. Protest challenging agency's evaluation of technical proposals and source selection decision is denied where the record shows that the evaluation and selection decision were reasonable and consistent with the terms of the solicitation.
 2. Protest challenging the cost realism evaluation of protester's and awardee's proposals is denied where agency reasonably adjusted protester's indirect rates and the agency's use of the standard deviation methodology was unobjectionable.
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DECISION

Logistics Management Institute (LMI) of Tysons, Virginia, protests the issuance of a task order to Booz Allen Hamilton, Inc. (BAH), of McLean, Virginia, under request for proposals (RFP) No. N00039-19-R-3502, issued by the Department of the Navy, Naval Information Warfare Systems Command (NAVWAR), for professional support services for the NAVWAR Program Executive Office for Enterprise Information Systems (PEO-EIS).¹ The protester challenges the agency's evaluation of the proposals and the source selection decision.

¹ On June 3, 2019, the Navy renamed the Space and Naval Warfare Systems Command the Naval Information Warfare Systems Command. Contracting Officer's Statement/Memorandum of Law (COS/MOL) at 1 n.1.

We deny the protest.

BACKGROUND

On February 8, 2019, the Navy issued the RFP, pursuant to Federal Acquisition Regulation (FAR) subpart 16.5, to holders of indefinite-delivery, indefinite-quantity (IDIQ) contracts for program management services under the Navy's Seaport Next Generation multiple-award contract.² RFP at 1, 46-47. The RFP anticipated issuing a single cost-plus-fixed-fee (CPFF) award term (level of effort) task order with a 1-year base period and three 1-year options to provide professional support services to PEO-EIS and its associated program/project management offices.³ Id. at 47. PEO-EIS provides "[i]nformation [t]echnology (IT) support and technical solutions for the [Navy] within the enterprise and business domain" and "represents every discipline within the acquisition management field[.]" RFP attach 1, § 2.1.

The solicitation anticipated award on a best-value tradeoff basis, after a two-phased source selection process. RFP at 65. The first phase required proposals to be evaluated against "gate" requirements on an acceptable/unacceptable basis. Id. Only proposals found to be acceptable under phase one would proceed to the second phase, where they would be evaluated under the following factors, in descending order of importance: sample problems/scenarios; management approach; and cost. Id. The two non-cost factors, when combined, were significantly more important than cost, and the government reserved the right to award to a lower cost offeror "when the offers were considered essentially equal in terms of all non-cost [f]actors, or when specific strengths and benefits associated with a technically superior offeror do not support the payment of any associated cost premium." Id.

The Navy received timely proposals from three offerors, including LMI and BAH. COS/MOL at 14-15. All offerors were deemed acceptable under the gate requirements of phase one and went on to be evaluated under phase two. Id. at 15-17. A technical evaluation team (TET) was established to evaluate the technical proposals. Agency Report (AR), Tab 2A, TET Report. The cost proposals were evaluated by the cost evaluation team (CET). AR, Tab 3B, CET Report. The results of the technical and cost proposal evaluations were as follows:

² Although firms that compete for task orders under IDIQ contracts are generally referred to as "vendors" who submit "quotations" and are "issued" task orders, the record and the parties' briefings primarily use the terms "offerors," "proposals," and "award." For the sake of consistency with the record, we refer to the firms as offerors who submitted proposals for award of a task order.

³ The agency amended the RFP three times. COS/MOL at 3 n.2. Unless noted otherwise, all references are to the conformed version of the RFP, incorporating all amendments.

	BAH	LMI
Sample Problems/Scenarios⁴	Good	Good
Management Approach	Good	Good
Total Proposed Cost	[DELETED]	[DELETED]
Total Evaluated Cost	\$173,285,173	\$193,598,043

AR, Tab 9B, Source Selection Decision Document (SSDD), at 1.

The source selection authority (SSA) reviewed and concurred with the findings of the TET and CET, and considered each offeror’s non-cost information in conjunction with their cost proposal. AR, Tab 9B, SSDD. The SSA performed a comparative assessment of the proposals and concluded that BAH presented the best value to the government. On May 7, 2019, LMI was notified of the agency’s decision to issue the task order to BAH. AR, Tab 10, Unsuccessful Offeror Letter. LMI timely requested and received a debriefing. AR, Tab 13, LMI Post-Award Debrief; AR, Tab 16, Post-Award Enhanced Debriefing Responses to LMI. This protest followed.⁵

DISCUSSION

LMI’s initial and supplemental protests assert multiple challenges to the Navy’s evaluation of technical and cost proposals, as well as the agency’s source selection decision. While our decision does not specifically discuss each and every argument or variation of the arguments, we have considered all of LMI’s allegations and find no basis on which to sustain the protest.⁶

⁴ The two technical factors were to be assigned one of the following adjectival ratings: outstanding, good, acceptable, marginal, or unacceptable. RFP at 68-69.

⁵ The awarded value of the task order at issue exceeds \$25 million, and was placed under an IDIQ contract established by the Navy. Accordingly, our Office has jurisdiction to consider LMI’s protest. 10 U.S.C. § 2304c(e)(1)(B).

⁶ Before submitting its agency report, the Navy filed a request to dismiss LMI’s protest allegations related to the Navy’s evaluation of BAH’s proposal. The Navy asserted those allegations failed to state a valid basis of protest because LMI’s claims were speculative and unsupported by either evidence or details. Req. for Dismissal at 7. LMI responded that its allegations were legally sufficient because, if uncontradicted, they established the likelihood that LMI would prevail in its claim of improper agency action. Response to Req. for Dismissal at 2-9. We agreed and denied the Navy’s request. In this regard, GAO will consider protest grounds that are grounded on “reasonable and credible inferences based on the information available to the protester,” and if uncontradicted, establish the likelihood that the protester will prevail. CDO Techs., Inc., B-416989, Nov. 1, 2018, 2018 CPD ¶ 370 at 5; see also Midwest Tube Fabricators, Inc., B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3.

Technical Evaluations

LMI argues the Navy's evaluation of LMI's and BAH's technical proposals was unreasonable and failed to follow the terms of the solicitation. LMI contends that the Navy should have assigned LMI's technical proposal an "outstanding" rather than a "good" rating and that BAH's technical proposal should have been assigned lower ratings. Protest at 22-30; Comments & Supp. Protest, July 1, 2019, at 24-32.

The evaluation of proposals in a task order competition, including the determination of the relative merits of proposals, is primarily a matter within the agency's discretion. Sevatec, Inc., B-416617, B-416617.2, Nov. 1, 2018, 2018 CPD ¶ 379 at 6; Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 6. In reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency, but rather examines the record to determine whether the agency's judgment was reasonable and in accord with the stated evaluation criteria and applicable procurement laws and regulations. OGSystems, LLC, B-417026.5, B-417026.6, July 16, 2019, 2019 CPD ¶ 273 at 5.

Here, all three offerors were found acceptable under the gate requirements of phase one. COS/MOL at 15. At phase two, proposals were evaluated under the cost and two technical factors (sample problems/scenarios and management approach). RFP at 53-54. For the sample problems/scenarios factor, the RFP advised offerors that the TET would evaluate proposals on the extent to which the proposal shows that the offeror understood the professional support services performance requirements of the performance work statement (PWS), and the extent to which the offeror's responses identified "the challenges and risks to provid[ing] an overall successful approach and solution" to the sample problem/scenario. Id. at 67. With regard to the management approach factor, offerors were advised that the government would evaluate "how well the [o]fferor's start- up transition, staffing, and retention approach minimize[d] learning curve demands and disruption to government operations and processes to ensure quality standards." Id.

LMI and BAH were both evaluated as "good" under the sample problems/scenarios factor, the most important factor. AR, Tab 2A, TET Report, at 5, 11. Both offerors received the same two strengths, each, for exhibiting a thorough approach and understanding of the requirements. Id. Neither LMI nor BAH were assigned any weaknesses or deficiencies, and the TET determined this resulted in a low to moderate risk of unsuccessful performance for each offeror. Id. Specifically, the TET found LMI's thorough understanding and knowledge of the Navy's Commercial Cloud governance and processes to be a strength, as well as LMI's understanding of the PEO-EIS portfolio and organizational structure. Id. at 11-12. Similarly, BAH's proposal was also assigned strengths for the same reasons under this evaluation factor. Id. at 5-6.

The TET also assessed both LMI and BAH as "good" under the management approach factor. Id. at 6-7, 12. LMI was assigned three strengths for the following: (1) use of,

and access to, [DELETED]; (2) use of a dedicated transition manager; and (3) approach to retaining staff. Id. at 12-13. BAH, on the other hand, received only two strengths: (1) use of [DELETED]; and (2) its detailed understanding of PEO-EIS and its stakeholders. Id. at 6-7. No weaknesses or deficiencies were assigned to either offeror under this evaluation factor. Consequently, the TET determined LMI and BAH each had a low to moderate risk of unsuccessful performance. Id. at 7, 12.

LMI largely argues that the Navy's technical evaluation was unreasonable and that the Navy failed to value LMI's unique strengths and approach. Protest at 22-29; Comments & Supp. Protest, July 1, 2019, at 24-32; Comments & Supp. Protest, July 12, 2019, at 47-54. In this respect, the protester's contention is twofold; essentially, LMI believes its proposal warranted more strengths, and that the strengths assigned to it should have merited an "outstanding" rather than a "good" rating.

For example, LMI claims that it should have received an additional strength under the management approach factor because LMI's quality management system and quality products are consistently cited in its reviews in the Contractor Performance Assessment Reporting System (CPARS). Protest at 28-29. LMI contends that its high customer satisfaction rate demonstrates LMI's ability to ensure products are completed "correctly, the first time, without the need for rework." Id.; see also Comments & Supp. Protest, July 1, 2019 at 28-29; Comments & Supp. Protest, July 12, 2019, at 52-53. The Navy responds that LMI's CPARS information was properly considered in phase one, during the gate requirements evaluation, for which LMI was credited and received an acceptable rating.⁷ See COS/MOL at 15, 51-52. At phase two, the Navy contends that the RFP did not permit information other than the oral presentation and corresponding slides to be evaluated for the two technical factors; thus, in the Navy's view, the TET properly did not consider other information. See id. at 17, 52.

We find the agency's evaluation here to be reasonable. In this regard, the RFP required offerors to submit proposals in three separate volumes: volume I, gate requirements; volume II, oral presentation (technical); and volume III, cost and administrative. RFP at 50. With respect to the volumes, offerors were advised that "[e]ach [v]olume shall be written on a stand-alone basis so that its contents may be evaluated without any cross-referencing to other [v]olumes of the proposal." Id. Further, the RFP stated that, under the management approach factor, the agency would not "accept for evaluation of this factor[,] any documentation from the [o]fferor other than [the] Oral Presentation file." Id. at 54. The agency recognized and reasonably considered the benefits associated with LMI's management approach as presented in its slides and oral presentation, giving LMI three strengths under this evaluation factor. AR, TAB 2A, TET Report, at 12-13.

⁷ The four elements evaluated under the phase one gate requirements were: small business participation; past performance; key personnel; and organizational experience. RFP at 66. The solicitation clearly advised offerors that the agency would only assess the gate requirements for acceptability. Id.

LMI argues that because one of its slides demonstrated high customer satisfaction from its CPARS reviews in relation to LMI's quality management system, the CPARS information should have been considered in the Navy's evaluation of LMI's proposal under the management approach factor--and the proposal should have been assigned an additional strength as a result. The RFP, however, prohibited such consideration during the second phase of the evaluation. See RFP at 49. Our Office does not reevaluate proposals, rather, we review the record to determine if the evaluation was reasonable, consistent with the solicitation's evaluation scheme and procurement statutes and regulations, and adequately documented. See MicroTechnologies, LLC, B-413091, B-413091.2, Aug. 11, 2016, 2016 CPD ¶ 219 at 4-5; ProActive Techs., Inc.; CymSTAR Servs., LLC, B-412957.5 et al., Aug. 23, 2016, 2016 CPD ¶ 244 at 7.

Based on the record before us, we find nothing objectionable with the agency's evaluation of LMI's and BAH's technical proposals.⁸ The evaluators reasonably found that LMI's and BAH's oral presentations warranted a "good" rating under both technical factors, and thoroughly documented their findings. AR, Tab 2A, TET Report, at 4-8, 11-13. While LMI disagrees with the agency's assessment and argues that its proposal warranted additional strengths and a higher rating, we find the agency's evaluations and assignment of ratings to be unobjectionable. In this regard, there is no requirement that an agency must award the highest possible rating under an evaluation factor simply because the proposal contains strengths and/or is not evaluated as having any weaknesses. Enterprise Servs. LLC, B-415517, B-415517.2, Jan. 18, 2018, 2018 CPD ¶ 83 at 10.

Cost Realism Evaluation of LMI

LMI also challenges the Navy's cost realism analysis, specifically objecting to upward adjustments the Navy made to LMI's proposed labor escalation rates, general and administrative (G&A) expenses, and subcontractor/material handling (SMH) costs. Protest at 17-22. We have considered each of LMI's concerns in this area and find that none provides a basis on which to sustain the protest.

When an agency evaluates proposals for the award of a cost-reimbursement contract or task order, an offeror's proposed costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. FAR §§ 16.505(b)(3), 15.305(a)(1); Tatitlek Techs., Inc., B-416711 et al., Nov. 28, 2018, 2018 CPD ¶ 410 at 14; Engility Corp., B-413120.3 et al., Feb. 14, 2017, 2017 CPD ¶ 70 at 18. Consequently, an agency must perform a cost realism analysis

⁸ In its challenge to the agency's technical evaluation of BAH's proposal, LMI also argues that the Navy did not assess performance risk and that BAH's labor costs are so unrealistically low that BAH would not have been able to hire and retain staff. Protest at 29-30; Comments & Supp. Protest, July 1, 2019, at 30-32; see also Comments & Supp. Protest, July 12, 2019, at 18-32. We address this contention below in our answer to in LMI's challenge to the agency's cost realism evaluation of BAH's proposal.

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), 16.505(b)(3); Solers Inc., B-409079, B-409079.2, Jan. 27, 2014, 2014 CPD ¶ 74 at 4. An agency's cost realism analysis requires the exercise of informed judgment, and we review an agency's judgment in this area only to see that the cost realism analysis was reasonably based and not arbitrary. Cascade Gen., Inc., B-283872, Jan. 18, 2000, 2000 CPD ¶ 14 at 8.

The Navy provided extensive instructions to offerors regarding the submission of their cost proposals, including a Labor Hour Mix Summary (RFP attach. 4) and cost proposal workbook (RFP attach. 11) to aid in submitting information other than cost or pricing data needed to assess the realism of proposed costs. As set forth above, the RFP specified the labor categories and labor hours that offerors were required to propose. The RFP also set forth the other direct costs offerors were required to propose. RFP at 57. In addition, offerors were required to submit cost and pricing data for their proposed subcontractors regardless of the type of contract between the offeror and its subcontractor. Subcontractors awarded a cost-reimbursement contract for more than \$5 million also were required to submit cost proposals. Id. at 55.

The RFP established that the Navy would perform a cost realism analysis, in which proposed costs could be adjusted to reflect the government's estimate of the most probable cost of performing this task order. Id. at 54, 68. The RFP notified offerors that their proposed costs would be adjusted upward if their direct labor or indirect rates were determined unrealistic. Id. at 54. The RFP explained that the offerors bore the burden of establishing cost credibility and identified acceptable documentation for establishing direct labor and indirect rates. Id.

LMI submitted its cost proposal, which the CET reviewed and analyzed. AR, Tab 3B, CET Report at 57-63. The CET determined that LMI's direct labor rates were reasonable and did not make any upward adjustments. See id. at 61. However, when the CET evaluated LMI's labor escalation rate and its indirect rates, the CET determined LMI's rates were not realistic. Id. at 62-63. The CET reviewed the other documentation LMI submitted in its cost proposal to support its proposed rates and made upward adjustments. Id. The CET upwardly adjusted LMI's escalation rate, its G&A rate, and its SMH costs, for a total upward adjustment of \$[DELETED], or [DELETED] percent of LMI's proposed cost. Id. at 57. Ultimately, the Navy determined that \$193,598,043 was LMI's total evaluated cost (TEC) and used that number in its best-value tradeoff analysis. AR, Tab 9B, SSDD at 1, 5. We address LMI's objections to the agency's adjustment of its proposed rates below.

Escalation Rates

Offerors were instructed to identify the labor escalation rates proposed for each year, identify the source for the proposed rates, and provide a comprehensive description of the methodology and calculations used to establish the proposed rates. RFP at 56. The solicitation provided examples of sources that could be used to derive the escalation rates. Forward pricing rate agreements (FPRA), forward pricing rate

recommendations (FPRR), and historical information, were among the examples provided. Id. The RFP specified that, absent FPRA/FPRR rates, the government “may adjust proposed rates using a minimum escalation factor of 2.75% in the out-years.” Id. Additionally, offerors were on notice that adjustments to the proposed escalation rates “may be made by the Government unless adequate justification is provided as to why the Offeror’s escalation rates are fair and reasonable.” Id.

The CET analyzed the cost information LMI provided in support of its proposed escalation rate of [DELETED] percent and adjusted the rate upward to 2.75 percent for the out-years because LMI’s proposed escalation rate was less than the rate provided in the solicitation. AR, Tab 3B, CET Report, at 62. LMI submitted historical escalation data from the Bureau of Labor Statistics (BLS) cost employment index for management, professional and related occupations to support its proposed escalation rate. AR, Tab 6, LMI Cost Proposal Tab 1c, at 2-4. LMI took the average of the quarterly historical BLS rates from 2010 to 2018 to calculate its proposed [DELETED] percent escalation rate. See id. LMI also stated it participated in “several regional and national compensation surveys” to justify its rate but did not reference any other specific data. Id.

The CET explained that although the information submitted by LMI provided a historical trend, “it did not reflect the current and future trend in the industry of higher escalation for [fiscal year (FY)]19 to FY22.” AR, Tab 3B, CET Report at 62. In addition, the evaluators noted that LMI relied solely upon the BLS index and did not provide any actual historical escalation rates. Id. Ultimately, the CET determined that LMI did not provide adequate justification for its proposed escalation rate and upwardly adjusted the rate to the solicitation’s provided escalation rate. Id.

LMI argues the Navy unreasonably increased LMI’s escalation rate and ignored LMI’s justification. Protest at 18-20. The protester contends that the RFP permitted offerors to submit alternate rates as long as they were adequately supported and that its BLS survey data was sufficient. Protest at 19. LMI additionally argues that the Navy applied unstated evaluation criteria by requiring historical company data or future trend industry data. Comments & Supp. Protest, July 1, 2019, at 14-17. Lastly, LMI argues that the Navy treated it unequally by refusing its historical data while accepting historical data from BAH’s subcontractors to support escalation rates below 2.75 percent. Comments & Supp. Protest, July 12, 2019, at 35-39.

With regard to the Navy’s analysis of BAH’s subcontractors, the CET accepted proposed escalation rates that were less than 2.75 percent only when adequate justification for the lower rate was provided. See AR, Tab 3B, CET Report at 24, 26. For example, BAH’s subcontractor, [DELETED], proposed a [DELETED] percent escalation rate, which was below the solicitation’s rate; however, the CET accepted the proposed rate because it was supported by actual historical data for the most recent three years, which showed that the rate ranged between [DELETED] and [DELETED] percent. Id. at 24.

Conversely, when subcontractors did not submit adequate justification for their lower escalation rates, the CET adjusted their rates upward to the 2.75 percent solicitation rate. See id. at 28, 30, 33, 36, 38. In this respect, when BAH's subcontractor, [DELETED], proposed an escalation rate of [DELETED] percent that it asserted was consistent with its historical bid rates and the 2018 Consumer Price Index, the CET determined this was not adequate justification for the rate and made an upward adjustment to the solicitation's 2.75 percent escalation rate. Id. at 28.

Here, we find the Navy's upward adjustment of LMI's proposed escalation rate unobjectionable. The record indicates that the CET considered each offeror's proposed rate and determined whether the information submitted provided an adequate justification for a rate lower than the solicitation's escalation rate. Historical data or industry forecasts were not unstated criteria used in the CET's evaluation. The Navy's reliance upon historical data, by itself, or in conjunction with alternate data sources to determine whether an offeror provided adequate justification for an escalation rate is reasonable when historical data is specifically identified in the solicitation as a data source and as "pertinent cost information." RFP at 68. Furthermore, it is reasonable for an agency to adjust a proposed escalation rate where the solicitation indicated it would use a specified rate unless adequate justification for a different rate is provided. See Science Applications Int'l Corp., B-290971 et al., Oct. 16, 2002, 2002 CPD ¶ 184 at 18-19 (noting that while the protester may "be correct in its prediction about future cost escalation, it is the Navy, not [the protester], that must bear the risk if actual rates increase during performance" beyond the escalation rate identified in the solicitation).

Additionally, we conclude that the protester has not shown that the CET evaluated LMI or BAH's subcontractors differently. To the contrary, the record confirms that the CET reasonably applied its own judgment in determining which types of data submitted adequately supported the offeror's proposed escalation rates.

G&A Rate

Offerors also were required to submit proposed indirect rates and to "[e]xplain differences between actual current indirect rates and proposed indirect rates." RFP at 56. The RFP directed offerors to identify current or prior fiscal year information for FPRA, FPRR, provisional billing rates (PBR), or similar approved rate information on file with the Defense Contract Audit Agency (DCAA) or the Defense Contract Management Agency (DCMA).⁹ Id. If the most recent FPRA, FPRR, PBR or similar documentation from DCMA or DCAA was unavailable, offerors were required to provide "historical

⁹ Provisional billing rates (or PBRs) are estimated indirect rates that contractors project for the coming year. These estimated rates are used for billings made under cost-reimbursement contracts for interim reimbursement until the end of the fiscal year and settlement on actual rates is reached. See DCAA Manual 7641.90, Enclosure 5, https://www.dcaa.mil/Content/Documents/DCAAM_7641.90.pdf (last visited Aug. 26, 2019).

indirect data, including actual incurred rates, and annual incurred cost claims (if submitted)” for the three years preceding the offeror’s current fiscal year. Id. In the event offerors did not submit historical rates, the solicitation required offerors to provide detailed explanations as to why the information was not available. Id.

The RFP also required offerors to identify their G&A rate and identify the cost elements to which it was being applied. Id. at 57. LMI proposed that its G&A rate apply to all direct labor, fringe, and overhead costs based on its FY19 PBR, which was [DELETED] percent. AR, Tab 3B, CET Report at 62-63. LMI’s PBR letter stated that the “subject rates are for billing purposes only and [LMI] should not use these rates for other applications such as cost proposals or forward pricing rates.” AR, Tab 8, LMI Cost Proposal Vol. III (Tab1b) at 3-4. For FY15 to FY18, LMI’s historical G&A rates were [DELETED] to [DELETED] percent, with FY16 through FY18 being [DELETED] percent or higher. AR, Tab 3B, CET Report at 63.

The CET determined that LMI’s proposed G&A rate was not realistic in light of the fact that for FY16 through FY18, the historical rates were greater than [DELETED] percent. Id. The CET analyzed LMI’s cost information and noted that historically, LMI’s actual rates were between [DELETED] and [DELETED] percent higher than its PBR, based on data LMI provided. Id. As a result, the CET adjusted LMI’s G&A rate upward to [DELETED] percent, which was the lowest rate of the last three years submitted. Id.

LMI argues the Navy unreasonably increased LMI’s proposed, DCAA-approved G&A rate simply because LMI’s historical rates were marginally higher than its provisional rates. Protest at 20. The protester contends the Navy arbitrarily selected LMI’s lowest actual rate from the last three years submitted and ignored LMI’s historical rate from the fourth year (FY15), which was [DELETED] percent. Id. LMI also asserts that LMI’s PBR letter from DCAA should have been sufficient for the Navy to accept LMI’s proposed G&A rate, and argues that there was no basis for the Navy to make an upward adjustment because LMI proposed the exact same rate in the PBR letter. Comments & Supp. Protest, July 1, 2019, at 18. Finally, LMI argues the Navy failed to upwardly adjust G&A rates for BAH subcontractors with PBRs lower than their historical rates, such that LMI received treated disparate treatment. Comments & Supp. Protest, July 12, 2019, at 41-42.

We find the Navy’s cost realism evaluation and upward adjustment of LMI’s proposed G&A rate, reasonable and consistent with the stated evaluation criteria. In this regard, the solicitation directed offerors to provide historical information for the previous three years. LMI’s historical data demonstrated that LMI’s actual G&A rates for the preceding three years--ranging from [DELETED] to [DELETED] percent--were consistently higher than the proposed rate. In light of the cost information available to the agency at the time of the evaluation, we find that it was reasonable for the Navy to adjust LMI’s proposed G&A rate upward to [DELETED] percent--the lowest historical rate from the preceding three years. See INDUS Tech., Inc., B-411919 et al., Nov. 20, 2015, 2015 CPD ¶ 359 at 7-8 (finding the Navy’s use of most recent actual rates in cost realism analysis was a reasonable methodology).

Additionally, we find no merit to LMI's allegation of disparate treatment. The record shows that the CET made similar upward adjustments to BAH's subcontractor's proposed G&A rates, where PBRs were not in line with historical rates, and supporting information did not substantiate the rates. AR, Tab 3B, CET Report at 29 (adjusting upward the proposed rate of the subcontractor whose FY18 PBRs were lower than the indirect rates the subcontractor was currently invoicing NAVWAR); id. at 39 (making an upward adjustment to a subcontractor's proposed G&A rate even when the G&A rate was approved by the FY18 PBR where the only historical data provided was from 2017); see also Intervenor's Amended Comments at 24 n.10. The record establishes that the CET considered each offeror's proposed rate and determined whether the information submitted substantiated the rate. We conclude the agency's evaluation was reasonable, and that the differences in the CET's analysis of the G&A rates reflected differences in the cost information the offerors and subcontractors provided. See INDUS Tech., Inc., supra.¹⁰

Cost Realism Evaluation of BAH

LMI also challenges the Navy's cost realism evaluation of BAH's proposal. Specifically, the protester contends that the agency's evaluation failed to make sufficient adjustments to the unrealistically low direct labor rates in BAH's proposal. LMI also maintains the Navy failed to reasonably evaluate the risk associated with BAH's cost proposal, as required by the solicitation. We have considered all of the protester's arguments regarding the cost realism evaluation of BAH and find no basis on which to sustain the protest.

As part of its cost evaluation, the agency evaluated each offeror's proposed direct labor rates to determine whether the rates were realistic and sufficient for the contractor to obtain and maintain a qualified staff. AR, Tab 3B, CET Report at 5-7. The CET also

¹⁰ Similarly, LMI also argues that the Navy erroneously applied LMI's adjusted G&A rate to its proposed SMH cost, which resulted in double-counting the SMH cost and adding an unsupported \$[DELETED] increase to LMI's cost proposal. Protest at 21. The protester contends that it had already applied G&A and SMH costs in its cost proposal in accordance with its accounting practices, and that the CET did not understand the worksheets provided in the solicitation. See id.; Comments & Supp. Protest, July 1, 2019, at 20-23. Based on our review of the record, we find the agency evaluators reasonably determined that LMI's cost narrative and cost worksheets were unclear and internally inconsistent. As a result, we conclude that it was reasonable for the evaluators to find that LMI had miscalculated the SMH cost, and to make their own calculations based on their understanding of the cost proposal. See Mission1st Group, Inc., B-414738.9, Feb. 12, 2019, 2019 CPD ¶ 80 at 5 (finding offerors are responsible for submitting a well-written proposal with adequately-detailed information that clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency).

reviewed the documentation submitted by the offerors to substantiate their proposed direct rates, and contacted DCAA and DCMA to confirm whether rate information was available. Id. at 6-7. When the evaluators found an offeror's proposed costs to be unrealistic, the CET made adjustments and calculated a "most probable cost." Id. at 12-13.

Because substantiating documentation that would allow the Navy to determine whether a proposed direct labor rate was realistic was not always submitted or available from DCAA or DCMA, the CET also utilized a statistical analysis for determining the realism of the proposed labor rates. Id. at 7-8. Specifically, for each labor category, an average direct labor rate was computed by using the proposed base-year rates of all offerors and, where available, their subcontractors. Id. The Navy also computed, for each direct labor rate, one standard deviation (approximately 34.1 percent) below the average rate, or mean.¹¹ Id. The CET considered direct labor rates not less than one standard deviation below the mean to be realistic and therefore made no adjustments. Id. By contrast, labor rates more than one standard deviation below the mean were considered to be unrealistic, and adjusted upward to the mean-minus-one-standard-deviation amount, unless adequate justification was provided in the offeror's proposal. Id.

BAH (including its proposed subcontractors) proposed direct labor rates based on a mix of actual salaries for current employees, and salary survey data. Id. at 17. BAH also submitted payroll verification information for all proposed direct labor rates based on salary data. Id. at 18. The CET verified BAH's payroll information data and therefore found direct labor rates based on actual salaries to be realistic. Id. However, for direct labor rates based instead on salary survey data, the CET utilized the aforementioned statistical analysis. In each instance where BAH's proposed direct labor rates were more than one standard deviation below the mean, they were adjusted upward.¹² Id.

LMI contends the Navy's cost realism evaluation of BAH's direct labor rates was unreasonable because the standard deviation analysis was flawed.¹³ The protester first alleges the standard deviation failed to account for certain salary premiums associated with specific labor category requirements (*i.e.*, security clearances, professional certifications, location/cost of living adjustments). Supp. Protest, July 8, 2019, at 7-8. LMI also alleges the agency's labor rate benchmarks were unreasonable because they

¹¹ For example, for the Senior Acquisition Specialist labor category, the mean was \$56.98 per hour, and one standard deviation below the mean was \$42.54 per hour. AR, Tab 3B, CET Report at 8.

¹² The CET noted four instances where BAH's proposed direct labor rates were adjusted upward as a result of the standard deviation analysis. AR, Tab 3B, CET Report at 18.

¹³ We note that LMI's challenge is limited to the evaluation of BAH's direct labor rates: the protester does not object to the evaluation of BAH's fringe rates, overhead rates, G&A rate, escalation rate, other direct costs, or fee.

were at the aggregate labor-category level, and the benchmarks blended together rates from different locations with different security clearance requirements. *Id.* LMI also contends the Navy's statistical analysis was irrational because BAH's and its subcontractors' rates were "[o]verrepresented in the [p]opulation of [d]ata [p]oints, [l]eading to [s]tatistical [b]ias and [c]onfounding."¹⁴ Comments & Supp. Protest, July 12, 2019, at 13.

As a preliminary matter, the Navy asserts that LMI's protest regarding the standard deviation analysis is untimely, because it was not raised within 10 days of receipt of the June 21 agency report. Supp. MOL, July 12, 2019, at 2-3. We disagree. Here, the agency elected to engage in a "piecemeal" production of the protest record. The cost evaluation report which the Navy first provided on June 21 was overly redacted; a slightly less redacted version was provided on June 28. It was not until July 2 that the Navy finally produced an adequate version of its evaluation of BAH's proposal. We find that LMI's protest of this issue was filed within 10 days of when the protester knew or should have known of its basis of protest, and is therefore timely. 4 C.F.R. § 21.2(a)(2). Quite simply, an agency "cannot have its cake and eat it too"--that is, provide as little information as possible in response to a protest, but then object to the resulting staggered development of the protest issues. See DRS Tech. Servs., Inc., B-411573.2, B-411573.3, Nov. 9, 2015, 2015 CPD ¶ 363 at 12 n.7 (finding protester's allegations timely when development of the argument "was the direct result of the agency's piecemeal production of documents").

When conducting a cost realism analysis, agencies are required to consider the realism of a firm's proposed costs in light of its unique technical approach. Booz Allen Hamilton, Inc., B-412744, B-412744.2, May 26, 2016, 2016 CPD ¶ 151 at 10; Metro Mach., Corp., B-402567, B-402567.2, June 3, 2010, 2010 CPD ¶ 132 at 6. However, where, as here, a solicitation provides a cost model that specifies the labor mix and level of effort for proposals, there is essentially no unique technical approach, and an agency may reasonably evaluate the rates proposed for those established labor categories based on other available data, such as the rates proposed by other offerors. See CSI, Inc.; Visual Awareness Techs. & Consulting, Inc., B-407332.5 *et al.*, Jan. 12, 2015, 2015 CPD ¶ 35 at 10-11; Energy Enter. Sols., LLC; Digital Mgmt., Inc., B-406089 *et al.*, Feb. 7, 2012, 2012 CPD ¶ 96 at 9-10. As such, we see no basis to object to the agency's use of a standard deviation analysis as a means of determining the realism of the proposed labor rates. Booz Allen Hamilton, Inc., *supra*.

Here, the record reflects the agency utilized its standard deviation analysis in the absence of other information (*e.g.*, actual salary data, or documentation from DCAA or DCMA) substantiating the realism of the offerors' proposed labor rates. In those

¹⁴ LMI contends the Navy's statistical analysis "excluded" (*i.e.*, did not include) LMI's subcontractors' direct labor rates from the mean because LMI, unlike BAH and the third offeror, did not propose any cost-reimbursement subcontracts that were over \$5 million. Comments & Supp. Protest, July 12, 2019, at 14; AR, Tab 3B, CET Report at 63.

instances where BAH's proposed direct labor rates were based on actual salaries of current employees, the CET verified the payroll information and reasonably found the proposed rates to be realistic. AR, Tab 3B, CET Report, at 17-18. LMI raises no challenge to the evaluation of BAH's direct labor rates when those rates were based on actual salaries.

We acknowledge, as LMI contends, that the agency utilized blended rates rather than location-specific rates for each labor category in its evaluation. We also recognize that a standard deviation analysis inherently assumes the use of valid data points (e.g., offerors' direct labor rates), and reflects all requirements for each labor category (e.g., security clearances, professional certifications). An agency's cost realism evaluation, however, is not required to achieve scientific certainty. Tatitlek Techs., Inc., *supra*. Rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the agency's conclusions about the most probable costs for an offeror's proposal are reasonable and realistic in view of other cost information reasonably available to the agency at the time of its evaluation. TeleCommunication Sys., Inc., B-413265, B-413265.2, Sept. 21, 2016 2016 CPD ¶ 266 at 10. In sum, notwithstanding the use of blended rates and inherent assumptions, we find the agency's standard deviation methodology here meets this standard.

We are also unpersuaded by the protester's argument that BAH's proposed labor rates were "overrepresented" in the standard deviation analysis, and that the Navy essentially compared the labor rates of BAH against BAH and its subcontractors. See Comments & Supp. Protest, July 12, 2019, at 13-15. The record reflects the cost evaluators also took into account the proposed labor rates of the third offeror as well as all offerors' subcontractors, where direct labor rates were available. Quite simply, LMI's protest seeks scientific, or statistical, certainty in the agency's cost realism evaluation; the lack of which does not make the evaluation unreasonable. Tatitlek Techs., Inc., *supra*.

LMI also contends the cost realism evaluation of BAH was unreasonable because the agency failed to utilize its own independent government cost estimate (IGCE). Comments & Supp. Protest, July 12, 2019, at 15-16. The agency maintains the cost realism evaluation of all offerors was reasonable even if the IGCE was not used as a tool. Supp. MOL, July 18, 2019, at 5-6. The agency also argues that LMI's protest here is untimely, as it was not raised within 10 days of when LMI knew of its reason for protest. Id. We agree.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Verizon Wireless, B-406854, B-406854.2, Sept. 17, 2012, 2012 CPD ¶ 260 at 4. Under these rules, a protest based on other than alleged improprieties in a solicitation must be filed no later than 10 days after the protester knew, or should have known, of the basis for protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Here, LMI knew or should have known of its basis of protest on May 17, when it was informed as part of the post-award debriefing that the agency's cost realism

evaluation did not include use of the IGCE. AR, Tab 16, LMI Debriefing, May 17, 2019, at 2 (“The Government developed an IGCE for planning purposes, but did not use the IGCE in its cost realism analysis.”). However, LMI did not protest the agency’s failure to use the IGCE as part of the cost realism evaluation until July 12. Therefore, this basis of protest is untimely and will not be considered further.

Lastly, LMI contends the agency’s cost realism evaluation failed to assess the risk associated with BAH’s allegedly low direct labor rates as required by the RFP. The solicitation established the agency would perform a cost realism evaluation and stated in relevant part:

The purpose of this cost realism evaluation shall be (a) to verify the Offeror’s understanding of the requirements; (b) to assess the degree to which the cost proposal reflects the approaches and/or risk assessments made in the technical proposal as well as the risk that the Offeror will provide the supplies or services for the offered prices/cost; and (c) to assess the degree to which the cost included in the cost/price proposal accurately represents the work effort included in the technical proposal, and/or other cost[-]related information available to the contracting officer.

RFP at 68.

LMI argues the agency failed to perform the cost realism evaluation promised by the solicitation by not assessing the risks associated with BAH’s alleged failure to propose costs based on the specific requirements of the PWS. Protest at 14; Supp. Protest, July 8, 2019, at 9. The Navy responds that it performed the required cost realism evaluation. Specifically, the agency contends its cost realism evaluation of offerors, including BAH, included a cost risk assessment--that “the CET and [SSA] determined the risk to the agency was in higher actual costs than those proposed, not decreased performance.” COS/MOL at 36 n.4.

We find the agency’s cost realism evaluation to be consistent with the stated evaluation criteria. As discussed, when conducting a cost realism analysis, agencies are generally required to consider the realism of a firm’s proposed costs in light of its unique technical approach. Booz Allen Hamilton, Inc., *supra* at 10; Metro Mach., Corp., *supra* at 6. Here, however, the RFP did not require an offeror to propose a unique technical approach for the performance of specified tasks. As set forth above, the sample problems/scenarios factor was evaluated based solely upon responses to hypotheticals provided during an oral presentation. By contrast, the agency’s cost realism evaluation was based on the realism of direct and indirect rates of solicitation-required labor categories, and not an offeror’s unique technical solution. We are therefore unpersuaded by LMI’s argument that BAH’s low direct labor rates reflected a lack of understanding of technical requirements or did not represent the work effort included in the offeror’s technical submission.

We also find the agency reasonably assessed the risk that BAH would not provide the supplies or services for the offered cost. The purpose of a cost realism analysis is to assess cost risk to the government, that is, to determine whether an offeror's proposed costs are realistic, and reasonably represent the most probable cost associated with an offeror's performance. See Smartronix, Inc.; ManTech Advanced Sys. Int'l, Inc., B-411970 et al., Nov. 25, 2015, 2015 CPD ¶ 373 at 14; see also Protest at 17 ("Given that this is a cost type contract, the risk is on the government to ensure the contract can be performed at the costs that were bid."). The record also reflects that the agency reasonably made adjustments to BAH's proposed costs where they were found not to be realistic, and utilized offerors' "most probable costs" in its resulting best-value determination. There was simply no requirement, as LMI suggests, that the agency perform some form of technical assessment of an offeror's proposed costs, or assign a risk rating to each offeror's cost proposal as part of its evaluation.

In sum, we find the protester's arguments challenging both the agency's use of a standard deviation analysis and cost realism evaluation of BAH generally to be without merit.

Source Selection Decision

Finally, LMI raises a number of arguments challenging the selection decision. In this regard, the protester primarily argues that the Navy's best-value tradeoff was inconsistent with the solicitation, which informed offerors that the technical factors, when combined, were significantly more important than cost. Instead, in LMI's view, the Navy simply awarded the task order to the offeror with the "low evaluated cost[,] technically acceptable" proposal. Protest at 31; see Comments & Supp. Protest, July 1, 2018 at 34-35. LMI also contends the selection decision was flawed because it relied on a defective technical and cost evaluation. Protest at 30-31; Comments & Supp. Protest, July 1, 2019, at 32-33.

The Navy argues that it substantively considered the differences between the offerors' highly rated proposals and found that LMI's slightly superior proposal under the management approach factor was not worth a price premium. Thus, the Navy contends it reasonably concluded that award to the lower-cost proposal would provide the best value to the government. COS/MOL at 56-59. The agency contends that its selection decision was not only reasonable but was entirely consistent with the solicitation, which specifically reserved the right to award to a lower-cost offeror when the offers were considered essentially equal, or when the specific strengths or benefits of a technically superior proposal did not warrant paying the associated cost premium. Id. We agree.

Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results; cost and technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the solicitation's evaluation criteria. See PricewaterhouseCoopers Pub. Sector, LLP, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 11. In reviewing protests of an agency's source

selection decision, even in a task order competition as here, we do not reevaluate proposals but examine the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and regulations. See McKean Def. Grp., LLC, B-415254.2, Dec. 19, 2017, 2017 CPD ¶ 389 at 5. Where, as here, technical merit is significantly more important than cost, an agency may properly select a lower-cost, lower-rated proposal if it reasonably decides that the cost premium involved in selecting a higher-rated, higher-cost proposal is not justified. Booz Allen Hamilton Inc., supra at 9.

As discussed, LMI and BAH were both rated "good" for both technical factors; LMI's TEC was \$193,598,043 while BAH's TEC was \$173,285,173. AR, Tab 9B, SSDD at 1. The SSA considered the offerors' proposals and documented her comparative analysis, identifying the strengths of each offeror and explaining that both offerors possessed strengths that presented comparable benefits to the government. Id. at 5-6. In the selection decision, the SSA identified strengths common to the offerors and determined that the level of benefits LMI and BAH provided were "essentially the same for [the sample problems/scenarios factor], the most important factor." Id. at 6. For example, the SSA found that both "BAH's and LMI's proposals would reduce gaps in support, minimize learning curves and ramp-up times, and reduce Government cost, schedule, and performance risk." Id. The SSA also acknowledged that LMI's proposal was slightly superior to BAH's proposal under the management approach factor because LMI proposed a dedicated transition manager to assist the LMI program manager during the tumultuous transition-in period. Id. However, the SSA concluded that "LMI's slightly superior [management approach] proposal does not provide significant additional value and is not worth the cost premium over the BAH proposal that offers a similar level of benefits." Id. at 7. We find nothing unreasonable about the SSA's conclusions.

Contrary to the protester's argument, the record shows that the SSA recognized that there were unique aspects in the offeror's proposals. Moreover, the record does not support LMI's challenges to the agency's technical and cost realism evaluations. Accordingly, we find no merit to LMI's objections to the tradeoff decision. See DRS Technical Servs., Inc., B-412070, Dec. 2, 2015, 2015 CPD ¶ 377 (finding agency's best-value tradeoff decision was not a pretext for a lowest-priced technically acceptable award where the record shows that the tradeoff decision was reasonable and adequately documented).

The protest is denied.

Thomas H. Armstrong
General Counsel