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# Decision

**Matter of:** R&K Enterprise Solutions, Inc.

**File:** B-419919.6; B-419919.7; B-419919.8

**Date:** September 12, 2022

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David A. Edelstein, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest of the agency's evaluation of technical proposals is denied where the protester has not demonstrated that the agency's decision was unreasonable or constituted disparate treatment.
  2. Protest of the agency's decision not to conduct discussions is denied where solicitation provided that the agency intended to make award without discussions and no statute or regulation required the agency to conduct discussions.
  3. Protest of the agency's best-value tradeoff decision is sustained where the record reflects that the agency did not qualitatively compare proposals before issuing the task order to the higher-priced, higher-rated proposal.
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## DECISION

R&K Enterprise Solutions, Inc., a small business of Newport News, Virginia, protests the issuance of a task order to Cyber Engineering and Technical Alliance, LLC (CETA), a small business of Columbia, Maryland, under Fair Opportunity Proposal Request (FOPR) No. FA4890-21-R-0001, issued by the Department of the Air Force, Air Combat Command, for information dominance support. R&K challenges the agency's evaluation of proposals, the agency's decision not to engage in discussions, and the agency's best-value tradeoff decision.

We sustain the protest.

## BACKGROUND

On May 21, 2021, the Air Force issued the FOPR to Small Business Pool 1 holders of the General Services Administration's (GSA) One Acquisition Solution for Integrated Services (OASIS) indefinite-delivery, indefinite-quantity (IDIQ) contracts, seeking a suite of training, operations, and administrative services, referred to as information dominance support, at Langley Air Force Base in Hampton Roads, Virginia. Contracting Officer's Statement (COS) at 2-3; see Agency Report (AR), Tab 3, FOPR.<sup>1</sup> The FOPR contemplated issuance of a hybrid fixed-price, level-of-effort, and cost-reimbursable order, for a 1-year transition/base period and four 1-year option periods. FOPR at 2. The work under the FOPR was described in a performance work statement (PWS). See FOPR at 21-141.

The FOPR stated that award would be made on a best-value tradeoff basis considering three factors: pass/fail,<sup>2</sup> price, and technical. FOPR at 12. The award decision would be based on an "integrated assessment" of these three factors, with the technical factor significantly more important than price. *Id.*

The technical evaluation factor was divided into two subfactors, each of which were further divided into three criteria. The first subfactor was technical experience, approach, and mission understanding. *Id.* at 7. Its three component criteria were technical experience/past performance, mission and scope understanding (major mission areas), and mission and scope understanding (government headquarters (HQ)-level support). *Id.* at 15-18. The second subfactor was management and staffing plan; its three criteria were titled recruit, retain, and manage. *Id.* at 18-19.

The FOPR described the manner in which the agency would evaluate proposals for each of the criteria. *Id.* at 6-19. For example, for the mission and scope understanding (major mission areas) criterion, offerors were to demonstrate their understanding of each of three major mission areas described in the PWS. *Id.* at 9. For each one, offerors were to "identify a potential mission complexity or challenge that may arise during performance in support of that mission area as well as the offeror's strategy to address the identified challenge." *Id.* The agency would evaluate this proposal aspect as follows:

The offeror's proposal demonstrates a holistic understanding of the three major mission areas represented under PWS Paragraph 2 . . . as they relate to the employment and management of cyber weapon systems under this effort. For

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<sup>1</sup> The FOPR was amended three times. COS at 3-4. Citations to the FOPR are to the conformed copy through amendment 3.

<sup>2</sup> The pass/fail factor assessed offerors' cover letters, security clearances, teaming arrangements, conflict of interest mitigation plans, and telecommute approaches. FOPR at 12. R&K does not challenge the agency's evaluation under this factor.

each mission area, the offeror’s identified mission complexity/challenge and proposed strategy to address it demonstrates their clear understanding and ability to support the missions aligned under this requirement.

*Id.* at 18.

With respect to the recruit criterion under the management and staffing plan subfactor, the FOPR stated that the agency would evaluate proposals as follows:

The offeror’s strategy to recruit and hire qualified personnel demonstrates a sound approach to successfully staff this contract with personnel capable of meeting minimum [knowledge, skill, and abilities] in the PWS. The proposal contains market research data that demonstrates the offeror’s adequate understanding of the local/national market and complexities associated with staffing the requirement and provides a sound approach to address the complexities.

*Id.*

In evaluating proposals under the technical factor, the agency intended to assign proposals an overall numerical score, referred to as a weighted total evaluation score (WTES). FOPR at 14. First, the agency would assess each proposal a score of five, four, three, or zero on each criterion. *Id.* These scores were defined as follows:

Score	Description
5 points	Proposal clearly exceeds the minimum requirements of the solicitation criteria and indicates an exceptional understanding/approach to meet mission and PWS requirements. The proposal contains multiple strengths and no weaknesses or deficiencies.
4 points	Proposal clearly meets the minimum requirements of the solicitation criteria and indicates a thorough understanding/approach to meet mission and PWS requirements. The proposal contains strength(s) that outweigh weaknesses and no deficiencies.
3 points	Proposal clearly meets the minimum requirements of the solicitation criteria and indicates an adequate understanding/approach to meet mission and PWS requirements. The proposal contains no strengths or weaknesses, OR the strengths do not outweigh the weaknesses and no deficiencies.
0 points	Proposal does not clearly meet the minimum requirements of the solicitation criteria and has not demonstrated an adequate understanding/approach to meet mission and PWS requirements. Proposal contains one or more deficiencies.

*Id.* at 14-15. After scoring proposals on each of the criteria, the agency would follow a mathematical formula set forth in the solicitation to calculate an overall WTES. *Id.* Next, the agency would evaluate each offeror’s total price. *Id.* at 13, 19-20. The FOPR provided that the agency would then make its tradeoff decision by “conduct[ing] an

integrated assessment [of] the WTES and [the total evaluated price] to determine which proposal represents the best value to the [g]overnment, where the technical rating of an offeror outweighs the price difference.” *Id.* at 13.

The Air Force received timely proposals from nine offerors, including R&K and CETA. COS at 13. The Air Force convened a Fair Opportunity Evaluation Board (FOEB) to review proposals. See AR, Tab 9, Fair Opportunity Selection Document (FOSD).

Six of the offerors were found to be ineligible for award. COS at 13. Three offerors’ proposals, including those of R&K and CETA, were deemed eligible for award. The FOEB produced a report detailing the strengths, weaknesses, and technical ratings of these offerors. See AR, Tab 9, FOSD.

Both R&K and CETA received a rating of “pass” on the pass/fail factor. *Id.* at 8.

On the technical factor, agency calculated a WTES for R&K’s proposal of 382.5. *Id.* at 37. For the mission and scope understanding (major mission areas) criterion, the agency identified two strengths, four weaknesses, and zero deficiencies. *Id.* at 39. The agency determined that the identified strengths did not outweigh the weaknesses, and assigned R&K’s proposal a score of three. *Id.* With respect to the mission scope and understanding (government HQ level support) criterion, the agency identified one strength, one weakness, and no deficiencies. *Id.* at 41. The agency concluded that the strength outweighed the weakness, and assigned R&K a score of four. *Id.* Under the management and staffing plan subfactor, the agency identified no strengths or deficiencies in R&K’s proposal on any of the three criteria, and one weakness on the retain criterion. *Id.* at 42. The agency assigned R&K a rating of three on each of the three criteria under this subfactor. *Id.*

The agency calculated a WTES for CETA’s proposal of 443.33. *Id.* at 48. For the mission and scope understanding (major mission areas) criterion, the agency identified three strengths, one weakness, and no deficiencies. AR, Tab 9, FOSD at 51. The agency determined that the strengths outweighed the weaknesses, and assigned CETA’s proposal a score of four. *Id.* With respect to the mission scope and understanding (government HQ level support) criterion, the agency identified three strengths, no weaknesses, and no deficiencies. *Id.* at 52. The agency concluded that CETA’s proposal demonstrated an exceptional understanding/approach to this criterion, and assigned CETA a score of five. *Id.* Under the management and staffing plan subfactor, the agency identified two strengths, no weaknesses, and no deficiencies in CETA’s proposal on the recruit criterion, and assigned CETA a score of five. *Id.* at 52-53. On both the retain and manage criteria for this subfactor, the agency identified one strength, no weaknesses, and no deficiencies, and assigned CETA a rating of four. *Id.* at 53.

The total evaluated price of R&K’s proposal was \$112,053,150. *Id.* at 71. The total evaluated price of CETA’s proposal was \$139,961,150. *Id.* The agency determined

that both R&K's and CETA's prices were complete, fair, reasonable, balanced, and not unrealistically low.<sup>3</sup> *Id.* at 43, 54.

The FOEB's report concluded with an award recommendation. The FOEB observed that "[t]he WTES difference between CETA and R&K is 14.7%. Therefore, the Government has the ability to gain 14.7% more value in technical superiority for 22.1% (\$27M) more in price over the life of the contract by awarding to CETA." *Id.* at 72. The FOEB stated that the technical factor was significantly more important than price, and concluded:

Although CETA's proposed pricing is approximately \$27M more than R&K, CETA's technical proposal is clearly superior to R&K's technical proposal. The additional 60.83 points in technical superiority in awarding to the highest evaluated WTES of 443.33 from CETA outweighs the \$27M price difference in awarding to R&K's lowest evaluated WTES of 382.5. In accordance with the [b]asis of [a]ward stated in the FOPR, CETA represents the best value for the [g]overnment.

*Id.*

Below the FOEB's report and recommendation, the FOSD contained a statement from the agency's decision authority. In making the award decision, the decision authority stated that "CETA provided a technical proposal that met all the [g]overnment's requirements and exceeded many requirements." *Id.* The decision authority then recapped some of the strengths identified in CETA's proposal. *Id.* at 72-73. The decision authority concluded:

CETA's WTES score of 443.33 is 10% higher than the next closest rated offeror. A price analysis was conducted using competitive pricing[,], historical pricing, and market research and it was determined that CETA's [total evaluated price] of \$139,961,149.63 was fair, reasonable, balanced, and was not unrealistically low.

For this reason, based on fair opportunity given to all offerors, it is my decision, as [d]ecision [a]uthority, to select CETA for award.

*Id.* at 73. The decision authority's statement did not mention R&K. *Id.*

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<sup>3</sup> During a prior evaluation round, the agency found R&K's price to be unrealistically low, and R&K protested this determination. See Protest, B-419919.3, March 22, 2022 at 26-28. The agency took corrective action in response to this protest, and discovered mathematical errors in its initial evaluation of R&K's price. COS at 14. Correction of these errors led the agency to conclude that R&K's proposed price was not unrealistically low. *Id.* The agency's corrective action did not include a reevaluation of offerors' technical proposals. AR, Tab 14, Debriefing Question and Answer at 8.

On May 23, 2022, the agency notified R&K of the decision to issue the task order to CETA. AR, Tab 11, Unsuccessful Offeror Notice. This protest followed.<sup>4</sup>

## DISCUSSION

R&K protests the agency's decision to issue a task order to CETA. The protester challenges the agency's evaluation of proposals, the agency's decision not to conduct discussions, and the agency's tradeoff decision.

For the reasons set forth below, we find that the agency's evaluation of proposals was reasonable, and that the agency's decision not to conduct discussions provides no basis to sustain the protest. Accordingly, we deny the protest on these grounds.<sup>5</sup> However, we find that the agency did not conduct and document a proper best-value tradeoff decision, and we sustain the protest on this basis only.

### Technical Evaluation of Proposals

The protester challenges multiple aspects of the agency's technical evaluation of proposals. The protester alleges that the agency improperly assessed all six of the weaknesses identified in the protester's proposal, unreasonably failed to recognize strengths in R&K's proposal under five of the six evaluation criteria, and evaluated offerors disparately.

The evaluation of technical proposals, including determinations regarding the magnitude and significance of evaluated strengths and weaknesses, is a matter largely within the agency's discretion, and a protester's disagreement with the agency's judgment, without more, does not establish a basis for our Office to sustain a protest. *Pemco Aeroplex, Inc.*, B-310372, Dec. 27, 2007, 2008 CPD ¶ 2 at 10-18. Our Office will not disturb an agency's evaluation of technical proposals unless it is shown to be unreasonable or inconsistent with the solicitation's evaluation criteria. *Wilson 5 Serv. Co.*,

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<sup>4</sup> We analyze our jurisdiction to hear protests of task orders issued under the GSA OASIS IDIQ under Title 41 of the United States Code. See *Futron, Inc.*, B-420703, July 25, 2022, 2022 CPD ¶ 189 at 3-4, n. 3. Because the value of the protested task order exceeds \$10 million, this protest is within our jurisdiction. 41 U.S.C. § 4106(f)(1)(B).

<sup>5</sup> We also deny the protester's challenge to the agency's decision not to conduct a reevaluation of technical proposals when taking corrective action in response to R&K's prior protest. The details of implementing corrective action are within the sound discretion and judgment of the contracting agency, and we will not object to any particular corrective action, so long as it is appropriate to remedy the concern that caused the agency to take corrective action. *DGC Int'l*, B-410364.2, Nov. 26, 2014, 2014 CPD ¶ 343 at 3. Here, as discussed below, we find the agency's technical evaluation to be reasonable; accordingly, we find no error in the agency's decision during corrective action to leave its evaluation in place.

*Inc.*, B-407047, Oct. 18, 2012, 2012 CPD ¶ 339 at 4. Further, when a protester alleges unequal treatment in a technical evaluation, it must show that the differences in the evaluation did not stem from differences between the proposals. *IndraSoft, Inc.*, B-414026, B-414026.2, Jan. 23, 2017, 2017 CPD ¶ 30 at 10.

With these standards in mind, we have reviewed all of the protester's challenges, and conclude that the agency's evaluation of proposals was reasonable, fair, and in accordance with the terms of the FOPR. We address representative examples below.

R&K challenges the assessment of a weakness under the mission understanding (major mission areas) criterion, related to one of the mission complexities that R&K identified in its proposal. See FOPR at 9. Specifically, with respect to the A3 tasks<sup>6</sup> under the PWS, R&K identified burnout, retention, manpower, and funding issues as mission complexities or challenges. AR, Tab 5, R&K Technical Proposal at 17. R&K's proposal stated that its strategy to address these challenges includes [DELETED]. *Id.* at 18. The agency found that R&K's discussion of this mission complexity, and R&K's strategy to address it, were "superficial and overlook[ed] critical skill set availability," failed to mention existing frameworks and solutions, identified only known issues with solutions already in progress, and did not demonstrate understanding of "the operational problems attendant to [information warfare] disciplines." AR, Tab 9, FOSD at 40.

The protester argues that the agency's assessment of this weakness was internally inconsistent with the agency's positive statements regarding R&K's proposal, overlooked information contained in R&K's proposal, and applied an unstated evaluation criterion.

With respect to the assertion of internal inconsistency, the agency found, as a general matter, that R&K's proposal "clearly demonstrates a holistic understanding of the three major mission areas represented in the PWS." AR, Tab 9, FOSD at 39. The agency argues that there is nothing inconsistent between this finding and a finding that R&K's identified mission complexity and solution did not demonstrate an adequate understanding of the operational problems facing the A3 tasks. COS at 23. We agree. In both the instructions to offerors and the description of the evaluation criteria, the FOPR framed the need to demonstrate a holistic understanding of the PWS missions and the requirement to identify operational problems and proposed solutions as separate criteria. See FOPR at 9, 18. On the record here, we see nothing inconsistent in the agency's conclusion that R&K demonstrated an overall understanding of the PWS missions, but that its focus on organizational issues with existing solutions was a weakness when evaluated through the lens of the requirement to identify and propose solutions to problems specifically affecting the A3 tasks.

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<sup>6</sup> A3 tasks refer to PWS tasks in support of the Information Operation Branch, the Intelligence Support to Cyberspace Operations Branch, the Air Operations Squadron, and other identified agency functions. FOPR at 27-29

The assessment of this weakness also does not indicate that the agency overlooked information in R&K's proposal. In this respect, the agency noted that R&K did not address the use of a framework called "MITRE ATT&CK,"<sup>7</sup> a relevant framework for addressing challenges to performance of the A3 tasks. AR, Tab 9, FOSD at 40. R&K argues that it did mention MITRE ATT&CK, in a technical experience reference, and that it "logically did not repeat" a discussion of this framework elsewhere in its proposal. Protest at 44; see AR, Tab 5, R&K Technical Proposal at 14. The agency responds that there was no indication in R&K's proposal that the mention of the MITRE ATT&CK framework in an experience reference was intended to describe R&K's approach to task order performance under an entirely separate evaluation criterion. COS at 24.

We agree with the agency's position. First, the reference to MITRE ATT&CK in R&K's proposal discusses how R&K developed a framework based on MITRE ATT&CK for a Department of the Army activity on a contract that ended in January of 2021. AR, Tab 5, R&K Technical Proposal at 13-14. There is no indication that this reference was intended to--or in any way does--describe R&K's approach to incorporating MITRE ATT&CK into its performance of the PWS requirements. Second, the FOPR specifically instructed offerors to address their approaches to mission challenges in the sections of their proposal responding to the mission and scope understanding (major mission areas) evaluation criterion. FOPR at 9. Where a solicitation directs offerors to address their approach to certain solicitation requirements in specific proposal sections, agencies are not required to search for information regarding that approach in other sections of a proposal. See *Morgan Bus. Consulting, LLC*, B-418165.6, B-418165.9, Apr. 15, 2021, 2021 CPD ¶ 171 at 13. Instead, it is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation and allows a meaningful review by the procuring agency. *Id.* An offeror runs the risk that a procuring agency will evaluate its proposal unfavorably where it fails to do so. *Id.*

Moreover, the agency's assessment of this weakness does not constitute application of an unstated evaluation criterion. In this respect, the protester alleges that nothing in the FOPR specifically required offerors to address the MITRE ATT&CK framework. Protest at 45. The Air Force responds that the FOEB mentioned MITRE ATT&CK as an example of areas of knowledge that contractors needed in order to appropriately support the PWS's A3 tasks (along with several other possible areas of knowledge). Supp. COS at 30. The agency assigned a weakness because R&K's decision not to mention any of these specific knowledge areas rendered its discussion of challenges under the A3 tasks generic and void of detail. *Id.*

We do not find that the agency applied an unstated evaluation criterion. In this respect, while procuring agencies are required to identify significant evaluation factors and subfactors in a solicitation, they are not required to identify every aspect of each factor that might be taken into account. *Emagine IT, Inc.*, B-420202, B-420202.2,

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<sup>7</sup> The record contains references to both "ATT&K" and "ATT&CK." This appears to be a typographical error of no substantive distinction.



Dec. 30, 2021, 2022 CPD ¶ 20 at 9; *MiMoCloud*, B-419482, Mar. 25, 2021, 2021 CPD ¶ 157 at 8. Rather, contracting agencies reasonably may take into account considerations, even if unstated, that are reasonably related to or encompassed by the stated evaluation criteria. *Id.* Here, we find that the agency's consideration of whether offerors demonstrated knowledge of specific, relevant tools was reasonably encompassed by the stated evaluation criterion calling for the demonstration of a clear understanding of, and ability to support, the PWS missions. See FOPR at 18.

For these reasons, we find the agency's assessment of a weakness to R&K's proposal for its discussion of mission challenges and proposed solutions to be reasonable.

The protester also alleges that, with respect to the mission and scope understanding (major mission areas) criterion, the agency "[u]nreasonably [a]ssigned R&K [o]nly [t]wo [s]trengths," and should have also recognized strengths for R&K's use of a subcontractor team with a track record of innovation and positive past performance. Protest at 47-49. The agency explains that these proposal features did not merit a strength under the mission and scope understanding (major mission areas) criterion because the description of this evaluation criterion did not mention track record or past performance, which were evaluated under a separate evaluation criterion. COS at 28-29.

We conclude that the protester's argument represents disagreement with the agency's judgment insufficient to sustain the protest. *Pemco Aeroplex, Inc.*, *supra* at 10-18. In this respect, an agency's judgment that the features identified in a proposal did not significantly exceed the requirements of the solicitation, and thus did not warrant the assessment of unique strengths, is a matter within the agency's discretion and one that our Office will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *UDC USA, Inc.*, B-419671, June 21, 2021, 2021 CPD ¶ 242 at 7. An agency is not required to document all "determinations of adequacy" or explain why it did not assess a strength, weakness, or deficiency for a particular item. *Id.* In any event, the contracting officer's explanation of why these features did not merit a strength is reasonable.

R&K also alleges that the agency evaluated its proposal and that of CETA unequally on the recruit criterion under the management plan subfactor, because the Air Force assessed CETA, but not R&K, a strength for its understanding of staffing difficulties in the local area. Specifically, the agency wrote, in part:

[CETA's] proposal exceeded requirements through CETA's comprehensive understanding of the staffing difficulties in the local area. CETA recognized the challenges to recruit cyber professionals in the Hampton Roads area, backed by market research which indicates a [DELETED].

AR, Tab 9, FOSD at 53.

R&K asserts that it should have been awarded a similar strength, because its proposal also recognized the challenges of recruiting in Hampton Roads and demonstrated that,

since 2007, it has staffed [DELETED] personnel at Langley Air Force Base across [DELETED] contracts. Comments and Supp. Protest at 50. The agency responds that R&K's descriptions of the local challenges and its past recruiting successes were broad, did not offer specific data, and did not enable the Air Force to determine that R&K's proposal exceeded the FOPR requirements. Supp. COS at 14. By contrast, the agency argues, CETA provided actual data regarding staffing trends in the area, and identified more than 15 different recruitment efforts which the Air Force found to be a benefit over and above the minimum requirements of the FOPR. *Id.* at 15.

The record supports the agency's position. For instance, R&K's proposal uses the phrase "market research," and describes some "location complexities" affecting recruitment in Hampton Roads. AR, Tab 5, R&K Technical Proposal at 25-26. However, it does not provide any data, instead making only general reference to "the knowledge that [R&K has] gathered on market demographics, location complexities, and mitigation methods" through prior contract experience. *Id.* By contrast, CETA's proposal provided specific data on the recruitment environment relevant to this task order:

[DELETED] notes the Tidewater region has [DELETED], largely driven by national security-related positions in the area. For instance, [DELETED] has identified a [DELETED] rise in Information Security Analyst positions in Hampton Roads.

AR, Tab 6, CETA Technical Proposal at 26. To succeed on its disparate treatment allegation, R&K must show that the differences in the evaluation did not stem from differences between the proposals. *IndraSoft, Inc., supra* at 10. Here, where the description of local recruitment challenges in CETA's proposal was more detailed and empirical than R&K's proposal, R&K has not met this burden. Accordingly, the agency's decision to assess CETA, but not R&K, a strength was reasonable and does not constitute disparate treatment.

Also with respect to the recruit criterion, R&K asserts that, as the incumbent on a related contract, it should have been awarded a strength for its plan to transition incumbent employees to the new task order (or, conversely, that CETA should have been assessed a weakness for its inability to easily transition the incumbent workforce). However, there is no requirement that an incumbent be given extra credit for its status as an incumbent, or that an agency assign or reserve the highest rating for the incumbent offeror. *Integral Consulting Servs., Inc.*, B-415292.2, B-415292.3, May 7, 2018, 2018 CPD ¶ 170 at 7. This is true even when the agency is evaluating offerors' plans to transition incumbent employees to a follow-on effort. *Id.* Here, the contracting officer states that proposing to retain incumbent personnel is a common, expected approach to staffing, and that R&K's proposal did not exceed the FOPR requirements in a way that merited the assessment of a strength. COS at 33. We find this conclusion to be reasonable.

Based on the above discussed representative examples and our conclusion that the remainder of R&K's challenges to the agency's technical evaluation of proposals are similarly without merit, we deny this basis of R&K's protest.

#### Decision Not to Conduct Discussions

The protester also contends that the agency improperly decided not to conduct discussions (or "interchanges," as the FOPR calls it here) with R&K. Protest at 69-71. In support of this argument, the protester points to the following statement in the FOSD:

If R&K were able to address their six weaknesses in interchanges, it could increase their WTES from 382.5 to 397.5 but their WTES would still be less than CETA's WTES of 444.33. CETA's technical superiority and higher price would still outweigh R&K's lower WTES and lower price; therefore, no interchanges were held with R&K.

AR, Tab 9, FOSD at 72. The protester argues that the agency's reliance on CETA's evaluated technical superiority to justify both the award decision and the decision not to conduct discussions was improper and prejudicial. Protest at 69-70. The protester also points to Department of Defense regulations indicating a preference for discussions in acquisitions--such as this one--in excess of \$100 million. Protest at 71 (citing Defense Federal Acquisition Regulation Supplement (DFARS) section 215.306(c)).

The agency responds that neither the FOPR nor any statute or regulation required the agency to conduct discussions, and that our Office will typically not review an agency's decision not to conduct discussions. Memorandum of Law (MOL) at 21-22.

Here, the FOPR specifically stated "the [g]overnment intends to make award based on the initial proposal submissions without conducting interchanges." FOPR at 3.

The FOPR also informed offerors that it was issued "in accordance with [Federal Acquisition Regulation (FAR)] Part 16.505 ordering procedures," and that "[t]he procedures in FAR 15.3 do not apply." FOPR at 1. The provisions of DFARS section 215.306(c), on which the protester relies, are not applicable to procurements conducted under FAR part 16. *United Support Servs., LLC*, B-417384, B-417384.3, Jun. 18, 2019, 2019 CPD ¶ 222 at 7-8. And, in procurements conducted under FAR part 16, our Office has found that agencies are not required to affirmatively make a reasoned decision regarding the decision not to conduct discussions, nor are they required to document such a decision. *CACI Technologies, Inc.*, B-411282, June 18, 2015, 2015 CPD ¶ 185 at 4.

Accordingly, we find that the Air Force was not required to make a reasoned determination regarding its decision not to conduct discussions or to document that decision. We therefore deny this basis of R&K's protest.

## Tradeoff Decision

R&K also protests that the agency's tradeoff decision was unreasonable because it consisted of a mechanical comparison of point scores that did not take into account the underlying bases for those scores, and because the decision authority considered only CETA's proposal and did not compare the merits of CETA's and R&K's proposals.<sup>8</sup> Protest at 73-76; Comments and Supp. Protest at 66-68. The agency responds that the decision authority specifically identified benefits in CETA's proposal in making the award decision, and that this demonstrates that the decision authority reviewed the FOEB's analysis when making the award determination. COS at 46; Supp. COS at 44.

In a best-value tradeoff procurement, it is the function of the source selection authority to perform a tradeoff between price and non-price factors, that is, to determine whether one proposal's superiority under the non-price factors is worth a higher price. *J.R. Conkey & Assocs., Inc. dba Solar Power Integrators*, B-406024.4, Aug. 22, 2012, 2012 CPD ¶ 241 at 9. Before an agency can select a higher-priced proposal that has been rated technically superior to a lower-priced but acceptable one, the award decision must be supported by a rational explanation of why the higher-rated proposal is, in fact, superior, and explaining why its technical superiority warrants paying a price premium. *Coastal Env'ts, Inc.*, B-401889, Dec. 18, 2009, 2009 CPD ¶ 261 at 4.

A source selection based on a mechanical application of point scores, without any qualitative assessment of proposals (*i.e.*, without a consideration of the proposals' strengths or weaknesses), is unreasonable. *West Coast Gen. Corp.*, B-411916.2, Dec. 14, 2015, 2015 CPD ¶ 392 at 12. Even if the source selection document contains summaries of the strengths and weaknesses of the proposals, our Office will sustain a protest where the record does not reflect a qualitative comparison of those strengths and weaknesses. *Id.* Further, a source selection authority cannot limit the tradeoff analysis to comparison of a limited subset of the highest-rated proposals without any qualitative assessment of the technical differences between these proposals and any of the other technically acceptable, lower-priced proposals. *J.R. Conkey, supra* at 9-10.

Here, a review of the decision authority's explanation of the award decision confirms that the decision authority did not make any comparison of the relative merits of CETA's and R&K's proposals--even an impermissible one based on point scores. The decision authority's award determination discusses only CETA's proposal, with no reference to R&K at all. AR, Tab 9, FOSD at 72-73. In fact, the only comparative language in the

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<sup>8</sup> The protester also contends that the agency's tradeoff decision was flawed because it was based on an unreasonable underlying evaluation of offerors' proposals. Protest at 71-72; Comments and Supp. Protest at 64-65. This allegation is derivative of the protester's challenges to the agency's evaluation. We dismiss this allegation because derivative allegations do not establish independent bases of protest. *Advanced Alliant Solutions Team, LLC*, B-417334, Apr. 10, 2019, 2019 CPD ¶ 144 at 6. In any event, we have denied all of R&K's challenges to the technical evaluation, as set forth above.

decision authority's statement compares CETA to the "next closest rated offeror," which is not R&K.<sup>9</sup> Because the decision authority did not compare CETA's proposal to R&K's lower-rated, lower-priced proposal, the award decision is unreasonable. *J.R. Conkey, supra* at 9-10.

Further, even if the decision authority had reviewed and adopted the FOEB's recommendation and rationale, as the agency suggests,<sup>10</sup> the tradeoff decision would still be improper because the FOEB's recommendation is based entirely on a mechanical comparison of point scores. The FOEB stated that "the [g]overnment has the ability to gain 14.7% more value<sup>[11]</sup> in technical superiority for 22.1% (\$27M) more in price," and that "[t]he additional 60.83 points in technical superiority in awarding to the highest evaluated WTES of 443.33 from CETA outweighs the \$27M price difference in awarding to R&K's lowest evaluated WTES of 382.5." *Id.* This is precisely the type of mechanical comparison of total point scores, without a qualitative comparison of underlying strengths and weaknesses, which our Office has long found to be unreasonable. See *West Coast, supra* at 12.

Finally, our office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions. *Celta Servs., Inc.*, B-411835, B-411835.2, Nov. 2, 2015, 2015 CPD ¶ 362 at 11. Here, we have found that the decision authority did not compare the strengths and weaknesses of R&K's and CETA's proposals. We cannot say whether, in a proper tradeoff decision, the decision authority would have determined that discriminators in CETA's proposal justified payment of a price premium. In such circumstances, we resolve any doubts regarding prejudice in favor of a protester since a reasonable possibility of prejudice is a sufficient basis for sustaining a protest. *Id.* at 12.

## RECOMMENDATION

Accordingly, we sustain R&K's protest of the agency's tradeoff decision. We recommend that the agency perform and document a proper best-value tradeoff. If,

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<sup>9</sup> The decision authority stated that CETA's WTES exceeded that of the "next closest rated offeror" by 10%. AR, Tab 9, FOSD at 73. CETA's WTES exceeded that of R&K by more than 15%, and R&K was identified as having the "lowest evaluated WTES." *Id.* at 72.

<sup>10</sup> While the decision authority may have reviewed the FOEB's evaluation of CETA's proposal, there is no evidence that the decision authority reviewed the FOEB's evaluation of R&K's proposal, or that the decision authority agreed with, or adopted, the FOEB's rationale for its award recommendation. See AR, Tab 9, FOSD at 72-73.

<sup>11</sup> While we would sustain the protest even if the calculated values the agency used were correct, we note that this appears to be a mathematical error. The difference in WTES between CETA and R&K is 60.83 points, which represents a percentage difference of either 13.7% of CETA's WTES or 15.9% of R&K's WTES. It is unclear how the agency calculated a difference of 14.7%.

based on this analysis, CETA's proposal is no longer found to represent the best value to the government, the agency should terminate the task order for the convenience of the government and issue a task order to the offeror whose proposal is determined to represent the best value. Additionally, we recommend that the protester be reimbursed its costs of filing and pursuing the protest, including reasonable attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1) (2002). The protester should submit its certified claim for costs to the contracting agency within 60 days of receiving this decision. Bid Protest Regulations, 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

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