



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Vector Resources, Inc.

File: B-420896; B-420896.2

Date: October 18, 2022

William S. Speros, Esq., and Ashley N. Solo, Esq., MacDonald Illig Jones & Britton, LLP, for the protester.

Peter B. Ford, Esq., Katherine B. Burrows, Esq., Patrick T. Rothwell, Esq., and Eric A. Valle, Esq., PilieroMazza PLLC, for Sigma Science, Inc., the intervenor.

Matthew VanWormer, Esq., and William Mayers, Esq., Department of Energy, for the agency.

Jonathan L. Kang, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the evaluation of the protester's and awardee's technical quotations is denied where the evaluations were reasonable and consistent with the solicitation. Although the evaluation of the awardee's quotation used terminology that corresponded to the solicitation's definition of a significant weakness, the contemporaneous record and the contracting officer's response to the protest reasonably explain why the agency assessed a weakness, rather than a significant weakness.

DECISION

Vector Resources, Inc., of Englewood, Florida, challenges the issuance of a task order to Sigma Science, Inc., of Albuquerque, New Mexico, by the Department of Energy, National Nuclear Security Administration (NNSA), under request for quotations (RFQ) No. 89233122QNA000226, which was issued for technical and administrative support services. The protester argues that the agency unreasonably evaluated vendors' technical quotations and unreasonably selected Sigma's quotation for award.

We deny the protest.

BACKGROUND

NNSA issued the solicitation on November 18, 2021, seeking quotations to provide technical and administrative support services for the agency's Y-12 National Security

Complex in Oak Ridge, Tennessee. Agency Report (AR), Tab 1.A, RFQ at 1. The services will support the Y-12 acquisition and project management office, which provides oversight for the critical infrastructure and modernization projects at the Y-12 Complex. Contracting Officer's Statement & Memorandum of Law (COS/MOL) at 3. Vector is the incumbent contractor for these requirements. *Id.* at 11.

The solicitation was issued under the Federal Supply Schedules (FSS) provisions of Federal Acquisition Regulation (FAR) subpart 8.4, and was limited to vendors with Enterprise-Wide Technical and Engineering, and Programmatic Services blanket purchase agreements established with NNSA. RFQ at 13. The RFQ anticipated the issuance of a time-and-materials task order with a 1-year base period and four 1-year options. *Id.* at 2-12.

The solicitation advised vendors that quotations would be evaluated based on the following four criteria: (1) technical approach, (2) key personnel resumes, (3) past performance, and (4) price. AR, Tab 1.F, RFQ attach. 5, Instructions and Evaluation Criteria at 3. The technical approach criterion had three subcriteria: (1) organizational structure, which was for "informational purposes," and not to be evaluated; (2) approach to performing sections 5.0, 6.0 and enclosure 1 of the performance work statement (PWS); and (3) staffing plan. *Id.* at 1. For purposes of award, the technical approach criterion was "significantly more important" than the other three criteria; the key personnel resumes and past performance criteria were "more important" than price; and all three non-price criteria, when combined, were "significantly more important" than price. *Id.* The RFQ also advised that "to the extent that the Vendors['] quotes are evaluated close or similar in merit; price is more likely to be a determining factor." *Id.* at 3-4.

NNSA received quotations from four vendors by the closing date of December 17, including Vector and Sigma. AR, Tab 7, Source Selection Decision (SSD) at 3. The technical evaluation panel (TEP) evaluated Vector's and Sigma's quotations as follows:¹

¹ The RFQ stated that the agency would assign one of the following ratings to the technical approach and key personnel resumes evaluation criteria and subcriteria: excellent, good, satisfactory, or less than satisfactory. RFQ attach. 5 at 6. For the past performance criterion, the RFQ stated that the agency would assign one of the following ratings: substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. *Id.*

	VECTOR	SIGMA
Technical Approach	GOOD	EXCELLENT
Approach to PWS Sections	Excellent	Excellent
Staffing Plan	Good	Excellent
Key Personnel Resumes	EXCELLENT	EXCELLENT
Past Performance	SUBSTANTIAL CONFIDENCE	SUBSTANTIAL CONFIDENCE
Price	\$75,317,581	\$76,879,175

Id. at 8. The TEP assigned Vector’s quotation two significant strengths, 10 strengths, and 2 weaknesses for the technical approach criterion; and two strengths for the key personnel resumes criterion. *Id.* at 9. The TEP assigned Sigma’s quotation four significant strengths, 11 strengths, and 1 weakness for the technical approach criterion; and two strengths for the key personnel resumes criterion. *Id.*

The contracting officer, who was also the source selection official, reviewed and concurred with the evaluations of the TEP. *Id.* at 9. The contracting officer found that the “key difference” between the vendor’s quotations under the non-price criteria was Sigma’s “superior approach” under the technical approach criterion, which was the most heavily-weighted criterion. *Id.* at 24. The contracting officer noted a number of advantages stemming from the strengths and significant strengths assigned to Sigma’s quotation, compared against the two weakness assigned to Vector’s quotation, which established the superiority of Sigma’s quotation for the technical approach criterion. *Id.* at 24-25. The contracting officer concluded that the additional benefits provided by Sigma’s quotation merited award at a higher price. *Id.* at 25.

NNSA notified Vector of the award on July 9, 2022, and provided Vector a brief explanation of the basis for the award decision in writing on July 13 and orally on July 14. COS/MOL at 15. The protest followed.

DISCUSSION

Vector challenges NNSA’s award to Sigma based on three primary arguments: (1) the agency should have assigned Vector’s quotation a rating of higher than good under the technical approach criterion; (2) the agency should have assigned Sigma’s quotation a rating of lower than excellent under the technical approach criterion; and (3) the agency’s award decision was unreasonable.² For the reasons discussed below, we find no basis to sustain the protest.

Where, as here, an agency issues a solicitation to FSS vendors under the provisions of FAR subpart 8.4 and conducts a competition for the issuance of an order, our Office will

² Vector also raises other collateral arguments. Although we do not address every argument, we have reviewed them all and find no basis to sustain the protest.

not reevaluate the quotations; rather, we review the record to ensure that the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. *Digital Solutions, Inc.*, B-402067, Jan. 12, 2010, 2010 CPD ¶ 26 at 3-4. Competitions under the FSS must be conducted on an equal basis; that is, the contracting agency must even-handedly evaluate quotations against common requirements and evaluation criteria. *Kingfisher Sys., Inc.; Blue Glacier Mgmt. Grp., Inc.*, B-417149 *et al.*, Apr. 1, 2019, 2019 CPD ¶ 118 at 8. A protester's disagreement with the agency's judgment, without more, does not establish that an evaluation was unreasonable. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2.

Evaluation of Vector's Quotation Under the Technical Approach Criterion

Vector argues that NNSA unreasonably assigned its quotation a weakness under the staffing plan subcriterion of the technical approach criterion. Protest at 19-26; Comments & Supp. Protest at 26-30. The protester contends that the agency unreasonably failed to consider other information in its quotation that addressed the agency's concern, and that the agency should have assigned its quotation a rating of excellent, rather than good for this subcriterion. We find no merit to these arguments.

The staffing plan subcriterion required vendors to describe their staffing plans based on the following five elements:

- i. its approach for attracting a professional nucleus of employees to successfully perform the PWS requirements;
- ii. its approach for retaining employees to successfully perform the PWS requirements;
- iii. its approach for replacing employees to successfully perform the PWS requirements;
- iv. its approach to place qualified personnel to perform work in a timely manner which may be requested on an emergent basis and may require a larger skill mix than the current nucleus of employees on a short term basis for a specific multi-person task;
- v. any other staffing approaches that will enhance contract performance.

RFQ attach. 5 at 1.

Although the RFQ directed vendors to address their "approach for attracting a professional nucleus of employees to successfully perform the PWS requirements," Vector's quotation contained a slightly different heading for the section of its quotation that addressed this requirement: "Approach for Timely Staffing of a Professional Nucleus of Employees." AR, Tab 3, Vector Technical Quotation at 10. The protester's

quotation explained that the firm’s “ability to attract and place new staff in a timely manner, both as replacements for existing staff and for new positions, is supported by the following recruitment strategy, with four distinct phases: 1) [DELETED] 2) [DELETED] 3) [DELETED] and 4) [DELETED].” *Id.*

The TEP assigned Vector’s quotation one strength, concerning the protester’s approach to sourcing and recruiting. AR, Tab 5A, Vector Technical Evaluation at 8. The TEP also assigned the protester’s quotation a weakness, noting that “[w]hile Team Vector demonstrates an effective hiring process, this does not address how they attract a professional nucleus of employees.” *Id.* The agency found that “[f]ailure to accurately address this criterion, is a flaw in the quote that increases the risk of unsuccessful contract performance.” *Id.*

The weakness assigned by the TEP was one of two³ cited in the best-value tradeoff as examples of why Sigma’s quotation “demonstrates a superior approach” under the technical approach criterion. AR, Tab 7, SSD at 24. In this regard, the SSD stated:

Vector’s staffing plan elaborated on its hiring process but failed to provide sufficient detail on the approach to attracting a professional nucleus. Team Vector opted to focus in-depth on their hiring process for bullets 3 and 4, “screening, evaluation, and selection” and “hiring and onboarding” which does not address or meet the requirements of the criteria to attract a professional nucleus. Consequently, the Government is unable to determine if Team Vector understood the requirement for Criterion 1, specifically 1(c)i. [attracting a professional nucleus], which reflects an increased risk of unsuccessful contract performance.

Id. at 25.

Vector first argues that the assignment of a weakness to its quotation was unreasonable because NNSA’s evaluation of its approach to attracting a professional nucleus of employees (element i) “erroneously focused on the subsections of Vector’s [quotation] intended to address different” elements of its staffing plan. Comments & Supp. Protest at 26. Specifically, the protester argues that the evaluation improperly focused on two items of its four-phase approach, “[DELETED],” which were intended by the protester to address the employee retention and employee replacement sections of its staffing plan (elements ii and iii), rather than the attracting a professional nucleus of employees section (element i). Protest at 20.

The protester’s quotation used separate headings for each of the five sections of its quotation that corresponded to the five elements of the RFQ’s staffing plan subcriterion. AR, Tab 3, Vector Technical Quotation at 12-14. The section of the protester’s

³ Vector initially challenged the assessment of the second weakness, which concerned the approach to PWS sections subcriterion of the technical approach criterion, but withdrew this argument. Comments & Supp. Protest at 2 n.1.

quotation that corresponded to the attracting a professional nucleus of employees element specifically identifies the two items cited in the assigned weakness-- "[DELETED]"--as two of the four "distinct phases" that comprise its "Approach for Timely Staffing a Professional Nucleus of Employees." AR, Tab 3, Vector Technical Quotation at 10. Because the protester expressly identified these two items as part its approach to the professional nucleus element, rather than other elements of the staffing plan subcriterion, we find no basis to conclude that the agency's evaluation unreasonably focused on these aspects of the protester's quotation.

Next, Vector argues that NNSA's evaluation of its approach for attracting a professional nucleus of employees was unreasonable because the agency did not consider other parts of its staffing approach that addressed this requirement. Protest at 20-21. The protester argues that the agency should have understood the following section of the introduction to its staffing plan to have related to its professional nucleus approach:

[DELETED]

AR, Tab 3, Vector Technical Quotation at 10.

The agency states that it viewed the introductory paragraph as describing the protester's staffing approach in "general terms," rather than providing specific details. COS/MOL at 19-20. For this reason, the agency did not find that the introductory paragraph addressed the agency's concerns regarding the lack of understanding with respect to the approach for attracting a professional nucleus element. *Id.*

Where the quotation subsequently provided details regarding the generally-described approaches, however, the agency explains that it assigned strengths. *Id.* For example, the agency notes that the protester's introductory paragraph did not describe its "corporate culture." *Id.* Instead, details regarding the firm's corporate culture were addressed under the heading describing the employee retention element of its staffing approach, which merited the assignment of a strength for that element. *Id.*; AR, Tab 5A, Vector Technical Evaluation at 9.

In contrast, the agency did not find that the introductory paragraph's general references were specifically mentioned in or related to the protester's approach to attracting a professional nucleus, nor did the section regarding the professional nucleus element provide any more detail about these general references to Vector's staffing approach. See COS/MOL at 19-20; AR, Tab 5A, Vector Technical Evaluation at 8. For these reasons, we find no basis to conclude that the agency unreasonably failed to consider the general descriptions in the introductory paragraph to the staffing approach section when evaluating the specific details of the protester's quotation pertaining to the professional nucleus element.

Next, Vector argues that the agency's evaluation of its approach for attracting a professional nucleus of employees "completely omitted" the quotation's discussion regarding sourcing and recruiting. Protest at 21. The agency, however, specifically

noted that “Team Vector’s approach to attracting a professional nucleus is based on the Sourcing and Recruiting process.” AR, Tab 5A, Vector Technical Evaluation at 8. The agency further assigned the protester’s quotation a strength based on its sourcing and recruiting approach because it “demonstrates a highly effective approach to attracting the staff required to achieve [the Acquisition and Project Management Office’s] mission.” *Id.* On this record, we find no merit to the protester’s contention that the agency’s evaluation omitted reference to this aspect of its quotation.

Evaluation of Sigma’s Quotation Under the Technical Approach Criterion

Vector argues that NNSA unreasonably assigned Sigma’s quotation a rating of excellent under the technical approach criterion because the agency improperly characterized a flaw in the awardee’s staffing plan as a weakness, rather than a significant weakness. Comments & Supp. Protest at 14-20. The protester contends that had the agency assigned a significant weakness, the awardee’s quotation would have been assigned a lower rating than excellent. We find no merit to these arguments.

The TEP assigned Sigma’s quotation a significant strength, a strength, and a weakness in connection with the first element of the staffing plan subcriterion, approach for attracting a professional nucleus of employees. AR, Tab 6A, Sigma Technical Evaluation at 7-8. With regard to the weakness, the TEP noted that the awardee’s quotation detailed a five-point approach to the professional nucleus element: “[DELETED].” AR, Tab 6A, Sigma Technical Evaluation at 7-8.

The TEP found that the awardee’s quotation did not provide details regarding the first, third, and fourth points in its approach, and “[i]nstead . . . makes generalized statements . . . which do not provide sufficient detail, or any additional information, to support the claims of an employee environment that would attract a professional nucleus.” *Id.* at 8. The TEP concluded that “[w]ithout knowing these details to demonstrate their abilities, this appreciably increase[s] the risk to the Government, as there is no means of measuring how successful or unsuccessful Team Sigma will be for these three bullet approaches.” *Id.* The source selection decision reiterated this concern, using identical language and also assessing a weakness. AR, Tab 7, SSD at 16.

Vector contends that the use of the word “appreciably” in the weakness assessed to Sigma’s quotation corresponds to the RFQ’s definition of a significant weakness, rather than a weakness. The RFQ defined a weakness as “[a] flaw in the quote that increases the risk of unsuccessful contract performance,” and a significant weakness as “[a] flaw in the quote that *appreciably* increases the risk of unsuccessful contract performance.” RFQ attach. 5 at 5 (emphasis added). In light of these solicitation definitions, the protester argues that the agency should have assigned the awardee’s quotation a significant weakness in connection with the approach for attracting a professional nucleus of employees element of the staffing plan subcriterion. Comments & Supp. Protest at 15-16. For these reasons, the protester contends that the agency could not have reasonably assigned the awardee’s quotation a rating of excellent for the technical

approach criterion, and that the agency could not have reasonably found that Sigma's technical approach merited award at a higher price. *Id.* at 16-17.

NNSA acknowledges that the RFQ defined a flaw in a quotation that "appreciably increases" the risk of unsuccessful contract performance as a significant weakness, and defined a flaw in a quotation that merely "increases" such risk as a weakness. COS/MOL at 13 n.3; Supp. COS/MOL at 5. Nonetheless, the agency states that the use of the word "appreciably" in the evaluation of Sigma's quotation was not intended to denote a significant weakness. Supp. COS/MOL at 5; Contracting Officer (CO) Response to GAO Questions at 2.

In response to questions from our Office concerning the evaluation of Sigma's approach to the professional nucleus element, the contracting officer explains that she understood the TEP to have assigned Sigma's quotation a weakness based on a lack of detail regarding the awardee's otherwise acceptable approach, and that she agreed with this assessment. CO Response to GAO Questions at 2. The contracting officer states that use of the word "appreciably" in the TEP report and SSD was a "mistake" and an "honest oversight" that was not intended to reflect that the flaw in the awardee's quotation was a significant weakness, as opposed to a weakness. *Id.* The contracting officer further states that her best-value tradeoff decision found the weakness assigned to the awardee's quotation less significant than a weakness assigned to the protester's quotation concerning its approach to attracting a professional nucleus. *Id.* at 3-4. In this regard, the contracting officer states that the weakness assigned to the protester's quotation concerned a lack of understanding of the solicitation requirement, whereas the weakness assigned to the awardee's quotation concerned a lack of detail for an otherwise acceptable approach. See *id.* at 3.

In reviewing an agency's evaluation and award decision, we do not limit our consideration to contemporaneously documented evidence, but instead consider all the information provided, including the parties' arguments, explanations, and any hearing testimony. *Remington Arms Co., Inc.*, B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 10. Our Office generally accords lesser weight to *post-hoc* arguments or analyses made in response to protest allegations because we are concerned that new judgments made in the heat of an adversarial process may not represent the fair and considered judgment of the agency. *Wolff & Mueller Gov't Servs. GmbH & Co. KG*, B-419181, B-419181.2, Dec. 28, 2020, 2021 CPD ¶ 12 at 4. While we accord greater weight to contemporaneous source selection materials as opposed to judgments made in response to protest contentions, post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, will generally be considered in our review of the reasonableness of selection decisions--so long as those explanations are credible and consistent with the contemporaneous record. *Strategi Consulting LLC; Signature Consulting Grp., LLC*, B-416867, B-416867.4, Dec. 21, 2018, 2019 CPD ¶ 10 at 5.

Vector's challenge concerns whether the agency intended the word "appreciably" to denote a significant weakness, and whether the evaluation should have given more

negative weight to the assigned weakness. We find that the contracting officer's responses to the protest and questions from our Office reasonably explain that the agency intended to assign the awardee's quotation a weakness, rather than a significant weakness, and that the weakness assigned to the protester's quotation was a more serious flaw than the weakness assigned to the awardee's quotation.

As discussed above, the contemporaneous record shows that the agency assigned the awardee's quotation a weakness, despite using the phrase "appreciably increases the risk," which is consistent with the RFQ's definition of a significant weakness. The record also shows that the best-value tradeoff decision cited as a discriminator between each vendor's quotations the weakness assigned to the protester's quotation, but not the weakness assigned to the awardee's quotation. We find that the agency's explanations are consistent with the contemporaneous record; that they fill in unrecorded details regarding the otherwise clear contemporaneous evaluation judgments; and that there is no reason to question the credibility of the agency's explanations. We therefore find no basis to sustain the protest.⁴

Best-Value Tradeoff Decision

Finally, Vector argues that NNSA's award decision was unreasonable.⁵ The protester primarily contends that the contracting officer's best-value tradeoff decision was flawed

⁴ Vector also argues that NNSA treated the protester and awardee unequally because, while both vendors' quotations were assigned a weakness regarding the approach to attracting a professional nucleus of employees element of the staffing approach subcriterion, the agency assigned the awardee's quotation a rating of excellent for the subcriterion, while assigning the protester's quotation a lower rating of good. Comments & Supp. Protest at 28-30. Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the proposals or quotations. *Solers Inc., a Peraton Co.*, B-418500.2 *et al.*, July 31, 2020, 2020 CPD ¶ 261 at 10. As discussed above, NNSA reasonably explains that the weakness assigned to Vector's quotation reflected the agency's concern that the protester did not understand the solicitation provision because the proposed approach focused on the hiring process, rather than the process of attracting the required personnel. CO Response to GAO Questions at 3. In contrast, the agency found that Sigma's quotation proposed an acceptable approach to the professional nucleus requirement, but that it lacked detail concerning certain aspects of the approach. *Id.* Moreover, the record shows that the higher adjectival rating assigned to the awardee's quotation was the result of more assigned strengths and significant strengths, and fewer weakness, as compared to the evaluation of the protester's quotation. See AR, Tab 7, SSD at 15-17. On this record, we find no merit to the protester's arguments concerning unequal treatment.

⁵ Vector initially argued that the award was inconsistent with the solicitation criteria based on statements made by the agency during the protester's post-award debriefing regarding the consideration of weaknesses in the best-value tradeoff decision. Protest

because it relied on evaluations that were tainted by the alleged errors discussed above. Because we conclude that none of the protester's challenges to the evaluation of Vector's or Sigma's quotations have merit, we similarly find no merit to the protester's challenges to the award decision.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

at 17-19. Although the agency's report responded to these arguments, Vector's comments on the agency report did not address them. See COS/MOL at 22; Comments & Supp. Protest at 22-25. We find that the issues that were initially raised in the protest, addressed in the agency report, but not addressed by the protester's comments, were abandoned, and therefore dismiss them. See 4 C.F.R. § 21.3(i)(3) ("GAO will dismiss any protest allegation or argument where the agency's report responds to the allegation or argument, but the protester's comments fail to address that response").