U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

Comptroller General
of the United States

Decision

DOCUMENT FOR PUBLIC RELEASE

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

Matter of: MP Solutions, LLC

File: B-420953; B-420953.2

Date: November 21, 2022

Ron R. Hutchinson, Esq., Doyle & Bachman LLP, for the protester.
David Z. Bodenhemier, Esq., and Madison Plummer, Esq., Nichols Liu LLP, for nTSI, LLC, the intervenor.
Captain Paula F. Barr, Missile Defense Agency, for the agency.
Heather Self, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest filed while questions were pending in a pre-award debriefing from a Department of Defense agency is not premature because the Department's enhanced debriefing procedures apply only to post-award debriefings.

2. Protest challenging the agency's evaluation of proposal and exclusion from the competitive range is denied because the allegations reflect the protester's disagreement with the agency's evaluation judgments, which the record reflects were reasonable and consistent with the solicitation.

3. Protest alleging first instance of improper disclosure of source selection information is denied because the agency conducted a reasonable investigation and concluded that no disclosure occurred. Protest alleging second instance of improper disclosure of source selection information is dismissed as untimely where the issue was raised more than ten days after the protester knew or should have known the basis of its protest.

DECISION

MP Solutions, LLC, a small business of Alexandria, Virginia, protests its exclusion from the competitive range under request for proposals (RFP) No. HQ0858-22-R-0003, issued by the Missile Defense Agency for specialized engineering analysis services. The protester challenges the evaluation of its proposal under multiple non-price factors. Additionally, the protester alleges two instances of agency disclosure of source selection information in violation of the procurement integrity provisions of the Office of Federal Procurement Policy Act, 41 U.S.C. §§ 2101-2107, known as the Procurement Integrity Act (PIA), and contends that the disclosures provided another offeror (nTSI LLC, the intervenor) an unfair competitive advantage.

We deny the protest.

BACKGROUND

On January 5, 2022, the agency issued the solicitation as a total small business set-aside using the procedures of Federal Acquisition Regulation (FAR) part 15. Agency Report (AR), Tab 6d, RFP at 1-2.[1] The solicitation sought proposals for the provision of engineering and technical support; studies, analysis, and evaluations; and management and professional services related to "the Missile Defense Agency's (MDA) mission to develop, test, and field an integrated, layered Missile Defense System (MDS) to defend the United States (U.S.), its deployed forces, allies, and friends against all ranges of enemy ballistic missiles in all phases of flight." AR, Tab 4g, RFP attach. J-01 Statement of Work (SOW) at 3.

The solicitation contemplated award of a cost-plus-fixed-fee level of effort contract with a 3-year base period, and two 2-year option periods. RFP at 51-55, 115; AR, Tab 6c, Instructions, Conditions, and Notices to Offerors (RFP § L) at 8. The solicitation established that award would be made on a best-value tradeoff basis considering cost and four non-cost factors. AR, Tab 4e, Evaluation Factors for Award (RFP § M) at 4-5. The solicitation provided that the following three of the four non-cost factors would be evaluated on an acceptable/unacceptable basis: (1) information management and control plan; (2) organizational conflict of interest management plan; and (3) facility clearance. *Id.* The solicitation set forth that "[a]ny proposal with an Unacceptable" on one of these three factors would "not be eligible for award." *Id.* at 5.

The solicitation provided that the fourth non-cost factor--mission capability--was composed of six equal subfactors: (1) innovation, science, and technology; (2) test and performance analyses; (3) cybersecurity engineering; (4) space systems; (5) Israeli programs; and (6) human capital management. RFP § M at 5. For each of the six mission capability subfactors, the evaluators would assign one of five potential adjectival ratings: outstanding, good, acceptable, marginal, or unacceptable. *Id.* at 6-7. Additionally, the evaluators would assess for each of the mission capability subfactors one of four technical risk ratings: low, moderate, high, or unacceptable. *Id.* at 7. The solicitation established that a proposal receiving a technical rating of unacceptable under any of the six subfactors would be considered unawardable. *Id.* at 7. Further, the solicitation set forth that the mission capability factor was significantly more important that cost, which the agency would evaluate for reasonableness and realism. *Id.* at 5.

The agency received two timely initial proposals from MP Solutions and nTSI, LLC. Contracting Officer's Statement (COS) at 2. The evaluators assessed MP Solutions' initial proposal as follows:

[1] Unless otherwise noted, our citations to the RFP are to the conformed solicitation included at Tab 6d of the agency report. All our citations to the record use the documents' PDF pagination.

	MP Solutions
Mission Capability	
Innovation, Science, and Technology	Acceptable/Moderate Risk 2 strengths, 1 significant weakness
Test and Performance Analyses	Acceptable/Moderate Risk 1 weakness, 2 significant weaknesses
Cybersecurity Engineering	Good/Low Risk 1 strength
Space Systems	Unacceptable/Unacceptable Risk 1 strength, 1 weakness, 3 deficiencies
Israeli Programs	Marginal/High Risk 4 weaknesses, 2 significant weaknesses
Human Capital Management	Acceptable/Low Risk 0 strengths, weaknesses, or deficiencies
Information Management and Control Plan	Acceptable
Organizational Conflict of Interest Management Plan	Acceptable
Facility Clearance	Acceptable
Proposed Cost	$455,243,743
Total Evaluated Cost	$455,243,743

AR, Tab 10, Competitive Range Determination at 2-3.

Based on the evaluation, the source selection authority (SSA) excluded MP Solutions from the competitive range because its "proposal did not demonstrate technical knowledge in multiple areas that are important to the MDA mission." AR, Tab 10, Competitive Range Determination at 3. The SSA concluded that "[s]ignificant oversite and technical support from Government resources would be required to ensure successful performance of" MP Solutions, and that its proposal was "unawardable due to the [u]nacceptable rating" under the space systems subfactor of the mission capability factor. *Id.* The SSA found that there would be "no advantage to the Government to include the [MP Solutions] proposal in the competitive range" because it contained multiple deficiencies, had an unacceptable technical and technical risk rating, and would require a major revision if discussions were convened. *Id.* The SSA reached this finding, notwithstanding MP Solutions proposed cost was "10.7% less than the average cost/price" because "the Government could not justify paying a lower price when the [MP Solutions] proposal contains a material failure and a combination of significant weaknesses increasing the risk of unsuccessful performance to an unacceptable level." *Id.* at 4. MP Solutions' exclusion from the competitive range left only one remaining offeror--nTSI, LLC. *Id.* at 4-5.

After being notified of its exclusion from the competitive range and receiving a pre-award debriefing, MP Solutions filed this protest. AR, Tab 11, MP Solutions Notification; Tab 13, Pre-Award Debriefing.

DISCUSSION

MP Solutions challenges the agency's evaluation of the firm's proposal under four of the six mission capability subfactors, taking issue with the evaluators' assessment of multiple deficiencies, significant weaknesses, and weaknesses in the firm's proposal, which resulted in its exclusion from the competitive range. While we do not discuss each individual evaluation challenge or variation thereof raised by MP Solutions, we have considered them all and find that none provides a basis to sustain the protest. Further, we deny one of MP Solutions' allegations of a PIA violation and dismiss as untimely its second such allegation.

Timeliness

As an initial matter, we address the timeliness of the protest, which the agency challenged prior to submission of its agency report. The agency argues that the protest is premature because it was filed prior to the conclusion of a required debriefing. Req. for Dismissal at 2.

Relevant here, on July 11, the agency notified MP Solutions of its exclusion from the competitive range. AR, Tab 11, Unsuccessful Offeror Notice at 1. The following day, MP Solutions requested a pre-award debriefing, which the agency provided on August 1. AR, Tab 12, Email from MP Solutions to Agency; Tab 13, Pre-Award Debriefing at 1. At the conclusion, the debriefing notified MP Solutions that it may submit to the contracting officer, by August 3, "relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed in the process of eliminating the offeror from the competition." AR, Tab 13, Pre-Award Debriefing at 46. The protester submitted questions by the established deadline. Tab 14, Email from MP Solutions to Agency. Having received no response to its debriefing questions, MP Solutions filed this protest with our Office on August 11, ten days after receipt of its pre-award debriefing. Electronic Protest Docketing System (Dkt.) No. 1. After the protest was filed, the agency responded to MP Solution's debriefing questions on September 1. AR, Tab 16a, Pre-Award Debrief Response to Questions Transmittal Letter at 1.

As the basis for dismissal, the agency cites to our Bid Protest Regulations, which provide that protests based on other than improprieties in a solicitation "shall be filed not later than 10 days after the basis of protest is known or should have been known" except for "protests challenging a procurement conducted on the basis of competitive proposals under which a debriefing is requested and, when requested, is required." 4 C.F.R. § 21.2(a)(2). In those circumstances, our regulations establish that "any protest basis which is known or should have been known either before or as a result of the debriefing . . . shall not be filed before the debriefing date offered to the protester,"

and instead "shall be filed not later than 10 days after the date on which the debriefing is held." *Id.* As our Office has explained, this debriefing exception to our timeliness rules is "designed to encourage early and meaningful debriefings and to preclude strategic or defensive protests." *Celeris Systems, Inc.*, B-416890, Oct. 11, 2018, 2018 CPD ¶ 354 at 2.

The agency asserts that the Department of Defense's (DOD's) enhanced debriefing process, in concert with our regulations, "dictate[s] that a post-award debriefing is not considered concluded until the agency delivers its written responses to the unsuccessful offeror['s]" debriefing questions. Req. for Dismissal at 3. As support, the agency cites to a decision from our Office in which we found a protest premature when it was filed during an enhanced debriefing, but before such debriefing was concluded. *Id., citing Celeris Systems, Inc.*, *supra* at 2. The agency contends that this same rule should be applied to the pre-award debriefing at issue here. *Id.*

In response to the agency's dismissal request, MP Solutions argues that the agency's position "relies upon governing law and precedent that applies only to post-award debriefings and does not apply to pre-award debriefings." Resp. to Req. for Dismissal at 1. MP Solutions contends that "[t]here is no extension to the 10-day deadline provided for in statutes and regulations governing pre-award debriefings and pre-award protests." *Id.* at 2. For the reasons explained below, we find that the protest was timely filed and was not premature.

Section 818 of the National Defense Authorization Act for Fiscal Year 2018 established the statutory basis for the DOD's enhanced debriefing process, by amending the statutory language applicable to post-award debriefings conducted under DOD procurements. Pub. L. No. 115-91, after reorganization, codified now at 10 U.S.C. § 3304. Specifically, section 818 mandated that the Secretary of Defense "shall revise the Department of Defense Supplement to the Federal Acquisition Regulation [DFARS] to require that all required *post-award debriefings*" were enhanced in certain specified ways, including the provision of an opportunity for an unsuccessful offeror to ask debriefing questions. Pub. L. No. 115-91 § 818(a) (emphasis added).

Subsequent to the passage of Section 818, the statutory provisions related to post-award debriefings under DOD procurements were amended to require that such debriefings include "an opportunity for a disappointed offeror to submit, within two business days after receiving a *post-award debriefing*, additional questions related to the debriefing." 10 U.S.C. § 3304(c)(G) (emphasis added). Notably, section 818 did not require similar amendments be made to the pre-award debriefing requirements for DOD procurements under title 10, and that section of the statute remains unchanged. *See generally* Pub. L. No. 115-91; 10 U.S.C. § 3305(d). Thus, by its plain language, the statute establishing the DOD's enhanced debriefing procedures applies only to post-award debriefings, not to pre-award debriefings, as the one at issue here. Accordingly, the agency's reliance on our *Celeris* decision--which discusses the interaction between our timeliness rules and the DOD's enhanced requirements for

post-award debriefings--is misplaced and provides no support for MDA's timeliness argument.[2]

In addition to *Celeris*, the agency references another decision by our Office dealing with a non-enhanced debriefing process, in which we found that the "debriefing was extended when the agency voluntarily allowed questions without indicating that the debriefing had been concluded." Req. for Dismissal at 4, *citing Harris IT Servs. Corp.*, B-406067, Jan. 27, 2012, 2012 CPD ¶ 57 at 5. The agency argued that here, as in *Harris*, the agency "provided a deadline for [MP Solutions] to submit questions in response to the debrief, which [MP Solutions] met," meaning that the debriefing would not be concluded until the agency "actually answers[ed] the questions submitted by [MP Solutions]," making MP Solutions' August 11 protest filing premature. Req. for Dismissal at 4.

In *Harris*, the contracting officer advised Harris, a disappointed offeror, that the General Services Administration (GSA) planned to provide a written post-award debriefing. *Harris IT Servs. Corp., supra* at 4. Harris asked the contracting officer if the GSA would be amenable to "a verbal debrief" in addition to the written debriefing, to which the contracting officer replied, "Let me get you the written one, after you read it, call me and I will see if I can fill in the gaps." *Id.* On October 13, 2011, Harris received its written debriefing, which included the following statement: "[t]his document satisfies the debriefing requirement by providing the basis for the selection decision and contract award." *Id.* Four days later, the contracting officer responded to a second request from Harris for a "verbal debrief" by saying "I don't mind a verbal," and asked for questions from Harris. *Id.* On October 18, Harris sent the contracting officer a letter that included questions "to facilitate the furtherance of the debrief process." *Id.* at 4-5. Then, during a telephone call on October 20, the contracting officer provided Harris with verbal answers to its questions. *Id.* at 5. At no point after provision of the October 13 written debriefing did the contracting officer inform Harris that the verbal responses to Harris's questions were not part of the debriefing process, despite Harris's continued reference

---

[2] Further, the DFARS provisions, implementing section 818's enhanced debriefing requirements, mirror the statutory language with respect to applying specifically to post-award debriefings:

> When providing a required *postaward debriefing* to successful and unsuccessful offerors, contracting officers shall -- (a) Provide an opportunity to submit additional written questions related to the required debriefing not later than 2 business days after receiving the *postaward debriefing*; (b) Respond in writing to timely submitted additional questions within 5 business days after receipt of the questions; and (c) Not consider the *postaward debriefing* to be concluded until the later of--(1) The date that the *postaward debriefing* is delivered, orally or in writing; or (2) If additional written questions related to the debriefing are timely received, the date the agency delivers its written response.

DFARS 215.506-70 (emphasis added).

to an oral debriefing process. *Id.* Thus, in *Harris*, we found that "notwithstanding the statement made in the written debriefing, the above communications reflected, at a minimum considerable ambiguity as to whether the [GSA]'s debriefing process was continuing." *Id.* Given the ambiguity, and considering that we resolve doubts regarding timeliness in favor of protesters, we concluded that Harris's October 25 protest was timely when filed within 10 days of the GSA's conclusion of what Harris referred to as its "oral debriefing" on October 20. *Id., citing Fort Mojave/Hummel, a Joint Venture*, B-296961, Oct. 18, 2005, 2005 CPD ¶ 181 at 6 n.7.

Here, again, the agency's misapplication of our prior decision provides no support for its argument. First, the *Harris* decision involves a post-award debriefing, in contrast to the pre-award debriefing at issue before us. Second, even if our decision in *Harris* had involved a pre-award debriefing, the facts are clearly distinguishable. Here, at the conclusion of the August 1 written debriefing, MDA provided MP Solutions with an opportunity to submit questions, which MP Solutions did by the August 3 deadline. AR, Tab 13, Pre-Award Debriefing at 46; Tab 14, Email from MP Solutions to Agency, Aug. 3, 2022. Unlike the situation in *Harris*, however, MDA neither acknowledged the protester's submitted questions, nor did the contracting officer communicate the intent to respond to the questions during the 10-day window following the August 1 debriefing. Rather, the agency waited until September 1--after the protest had been filed on August 11--to respond to the questions submitted by MP Solutions.[3] AR, Tab 16a, Pre-Award Debrief Response to Questions Transmittal Letter at 1.

Further, while the agency's pre-award debriefing did not include a statement that the debriefing process was concluded, neither was there any affirmative indication by the agency that the debriefing would be considered concluded only after the agency responded to further questions MP Solutions might have or that the debriefing would otherwise remain open. *See generally* AR, Tab 13, Pre-Award Debriefing. In a non-enhanced debriefing environment, the fact that MP Solutions took advantage of the opportunity to submit questions does not extend the debriefing, as our Office has found that only an agency's action can extend a debriefing. *K&K Indus., Inc.*, B-420422, B-420422.2, Mar. 7, 2022, 2022 CPD ¶ 62 at 5; *New SI, LLC*, B-295209 *et al.*, Nov. 22, 2004, 2005 CPD ¶ 71 at 3 (finding that where there was no affirmative indication from the agency that the debriefing would remain open after a scheduled session, the debriefing was considered to have concluded at the end of the session despite the protester's continued pursuit of questions with the agency). As was the case in *Harris*, however, an agency's action may, in some circumstances, extend the time to file a

[3] We also note that in *Harris* our Office was reviewing whether the protest filed after a post-award debriefing was untimely--*i.e.,* we were considering whether the protester would be precluded from moving forward at all in our bid protest forum. Here, however, we are reviewing whether a protest filed after a pre-award debriefing is premature--*i.e.,* we are considering only whether the protest potentially will be delayed in proceeding in our bid protest forum. This difference in outcomes stemming from our consideration of the application of our timeliness rules in these two situations serves to further distinguish the *Harris* decision from the facts presently before us.

protest by creating ambiguity regarding whether a debriefing has concluded. *Harris IT Servs. Corp., supra* at 4-5.

By contrast, the agency's actions here created an ambiguity that led the protester to reasonably believe its debriefing was closed. Specifically, the lack of indication as to whether the debriefing would remain open during the opportunity to ask questions combined with the agency's silence in response to MP Solutions' questions during the 10-day window following the August 1 pre-award debriefing, created an ambiguity as to whether or not the August 1 debriefing had concluded. We resolve doubts regarding timeliness in favor of protesters. *Harris IT Servs. Corp., supra* at 5. Accordingly, we find that MP Solutions' August 11 protest was timely-filed, and was not premature. The agency's failure to communicate or provide clarity on whether the August 1 pre-award debriefing was still open, created an ambiguity such that it was not unreasonable for MP Solutions to believe that the debriefing had been concluded. *See e.g., New SI, LLC, supra* at 3; *Handheld Sys., Inc.*, B-288036, Aug. 10, 2001, 2001 CPD ¶ 142 at 2 (finding that the agency's provision of additional responses to a protester's questions following a written debriefing and silence as to the status of the conclusion of the debriefing created ambiguity as to whether or not the initially provided debriefing had concluded).

Technical Evaluation

Turning to the protest allegations, MP Solutions challenges the agency's evaluation of the firm's proposal under four of the six mission capability subfactors. Protest at 9-63. Specifically, MP Solutions challenges each of the deficiencies and several of the significant weaknesses and weaknesses assessed in its proposal under these four subfactors: innovation, science, and technology; test and performance analyses; space systems; and Israeli programs. *Id.* MP Solutions argues that the evaluators misread, or ignored information in the firm's proposal, and that the agency applied unstated evaluation criteria by requiring proposals to address requirements not included in the solicitation's SOW. *Id.* As representative examples of the challenged evaluation assessments, we discuss two of the three deficiencies assessed in MP Solutions' proposal under the space systems subfactor, for which it was assigned both technical and risk ratings of unacceptable.

At the outset, we note that agency technical personnel who are most familiar with the government's requirements, are in the best position to make judgments as to whether a particular item meets a solicitation's technical requirements, and we will not question those determinations absent a showing that they are unreasonable. *Airbus Helicopters, Inc.*, B-418444, B-418444.2, May 12, 2020, 2020 CPD ¶ 168 at 16. In a protest challenging the evaluation of proposals, such as the one here, our Office will not reevaluate proposals nor substitute our judgment for that of the agency. *BNP Education Partners LLC d/b/a/ Marzano Research.*, B-420247, Jan. 12, 2022, 2022 CPD ¶ 32 at 4. Rather, we will review the record to determine whether the agency's evaluation was reasonable, consistent with the stated evaluation criteria and application procurement statutes and regulations, and adequately documented. *Id.* at 5; *Cyberdata Techs., LLC*, B-417816, Nov. 5, 2019, 2019 CPD ¶ 379 at 4. An offeror's disagreement with an

agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. *BNP Education Partners LLC d/b/a Marzano Research, supra* at 5; *Environmental Restoration, LLC,* B-417080, Feb. 5, 2019, 2019 CPD ¶ 155 at 4.

Relevant here, the solicitation provided that the agency would evaluate proposals under the space systems subfactor to assess "the Offeror's approach to, and understanding of support to the Government's Space Systems requirements, to accomplish" a specific list of "mission tasks." RFP § M at 9. The mission tasks were set forth as elements 1, 2, and 3 of the space systems subfactor, with each element further broken down into sub-elements (a through c). *Id.* at 9-10. The record reflects that the evaluators assessed deficiencies in MP Solutions' proposal under three mission tasks of the space systems subfactor: (1) Element 1, space concepts and architecture, sub-element a--"Space segment to include constellation design and management"; (2) Element 3, analysis of space products, sub-element a--"Analysis of flight and ground test data gathered from space systems in support of MDA flight tests as well as any Real World Events"; and (3) Element 3, sub-element c--"Supporting the development of digital scenarios to include natural backgrounds and threat trajectories to evaluate space system performance and 'what if' analyses." *Id.*; AR, Tab 8d, MP Solutions' Space Systems Evaluation at 1-3, 7-11. Based on the assessed deficiencies, the evaluators assigned MP Solutions' proposal both a technical rating and a risk rating of unacceptable for the space systems subfactor, because the proposal did not meet the solicitation requirements and was unawardable. *Id.* at 1. We discuss below the assessment of deficiencies for elements 3a and 3c.[4]

[4] We need not address the challenge to the deficiency assessed in MP Solutions' proposal under space systems element 1a--space concepts and architecture, space segment to include constellation design and management. Even were we to conclude that the evaluators' assessment of the deficiency under element 1a was unreasonable, as will be discussed below, MP Solutions' proposal still reasonably would have been assessed two deficiencies and--consistent with the solicitation--been assigned a rating of unacceptable under the space system subfactor, rendering its proposal unawardable. *See* RFP § M at 6 (defining deficiency as "[a] material failure . . . to meet a Government requirement" resulting in an unacceptable risk of unsuccessful contract performance) and at 7 (defining a rating of unacceptable as meaning that a "[p]roposal is unawardable").

As a result, MP Solutions cannot demonstrate that it would have been competitively prejudiced from any error that may have occurred with respect to the assessment of a deficiency in its proposal under space systems element 1a. Competitive prejudice is an essential element of every viable protest, and when an agency's improper actions did not affect the protester's chances of receiving award, there is no basis for sustaining the protest. *BNP Education Partners LLC d/b/a Marzano Research*, *supra* at 14.

Space Systems Element 3a--Analysis of Flight and Ground Test Data

The record reflects that the evaluators assessed a deficiency in MP Solutions' proposal under space systems subfactor element 3a--analysis of flight and ground test data gathered from space systems in support of agency flight tests as well as any real world events--because it "fail[ed] to address test objectives as the primary focus for analysis of test data and [did] not demonstrate an adequate approach to test analysis." AR, Tab 8d, MP Solutions' Space Systems Evaluation at 1. The evaluators found that MP Solutions' proposal to "perform a series of pre-test performance predictions using program office models" and then compare test results to the pre-test predictions, represented a "fundamentally incorrect" understanding of the solicitation requirements, because "[t]he purpose of [a] test is to gather results and measure them against the objectives set for the test, not against organically created models and simulations." *Id.* at 8, *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 20. Similarly, for flight test analysis, the evaluators found that MP Solutions' proposal "to assess deviations from pre-test predictions" and to "compare simulated to actual performance" was a discussion of "test windows," which are "a test function, not an engineering analysis function." AR, Tab 8d, MP Solutions' Space Systems Evaluation at 8-9, *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 20-21. The evaluators concluded that MP Solutions' proposal did "not mention analysis against flight test objections and evaluation criteria," which are the relevant metrics for the solicited engineering analysis services. AR, Tab 8d, MP Solutions' Space Systems Evaluation at 9.

Additionally, the evaluators noted that MP Solutions' proposal to develop ground test "architectures representing satellite epoch, pointing, jitter, bias, and onboard processing and coordinate representations of tactical SW [software] and HWIL [Hardware in the Loop]" demonstrated "a lack of understanding of how system models/architectures are designed for the [agency's] ground tests. AR, Tab 8d, MP Solutions' Space Systems Evaluation at 8, *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 19. Specifically, the evaluators concluded that the parameters mentioned in MP Solutions' proposal "are part of the model/system representation," the development of which is not part of the scope of the solicitation. AR, Tab 8d, MP Solutions' Space Systems Evaluation at 8. Similarly, the evaluators found that MP Solutions' proposal to use real world events "observations to update and inform digital representations of MDA systems and evaluate revisions or additions to MDA space system representations" represented "a fundamental misunderstanding of the scope of the contract," as MDA would actually be the "data provider in most cases." *Id.* at 9, *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 19.

Overall, the evaluators found that MP Solutions' proposed approach presented a "material failure increase[ing] the risk of contract performance to an unacceptable level because the proposal failed to provide an adequate understanding of the fundamental goals of the test analysis." AR, Tab 8d, MP Solutions' Space Systems Evaluation at 9. The evaluators noted that this material failure "impact[ed] all aspects of the approach including pre-test analysis planning, the tools necessary to complete the analysis, the

expertise needed to do the analysis and the timelines necessary to produce results for consumption." *Id.* The evaluators further explained that this failure affected not only MDA, "but the greater [DOD] community who also use MDA/[Space Systems] test data for things like anomaly resolution and other classified purposes." *Id.* Finally, the evaluators found that MP Solutions' proposed approach did "not contain any detail as to the actual mechanics of [MP Solutions'] analysis--no mention of what analysis tools they will use or how they will use them," and concluded that "[n]ot addressing these elements of test analysis render[ed] the proposed approach inadequate" and further "increase[d] the risk of contract performance to an unacceptable level." *Id.*

In challenging the assessment of this deficiency, MP Solutions first contends that there was nothing in the solicitation's SOW requiring "the [space systems] group to evaluate their performance against agency level test objectives," and that, instead, the SOW provided that the space systems group would perform "preliminary analysis that helps define experiment objectives and then performs pre and post-test analysis to evaluate performance." Protest at 19. Thus, MP Solutions' argues the evaluators' assessment that MP Solutions' understanding of the requirement was fundamentally incorrect was contrary to the solicitation terms.[5] *Id.*

The agency responds that the list of mission tasks, set forth in section M of the solicitation, specifically included as an evaluation criterion "[a]nalysis of flight and ground test data gathered from space systems in support of MDA flight tests as well as any Real World Events." COS at 9, *citing* RFP § M at 10. Further, MDA notes that several paragraphs of section 3.8 of the SOW "provide some insight as to what might be important to demonstrate an understanding of and approach to the requirement." COS at 9*, citing* SOW at 66, 70-71.

[5] In its comments responding to the agency report, MP Solutions maintains that the agency's use of the evaluation criteria set forth in section M, "untethered from the requirements of the SOW," was unreasonable and not consistent with statements in section M that the evaluation would assess offerors' approaches to and understanding of the SOW requirements. Comments at 2, 4-9, 13. To the extent MP Solutions is arguing that the solicitation's inclusion of various elements (*e.g.,* analysis of flight and ground test data) in the list of mission tasks set forth in the section M evaluation criteria was inconsistent with those same elements not being included in the SOW requirements, such a claim is untimely because any inconsistency was apparent from the face of the solicitation. Our timeliness rules specifically require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals be filed before that time. 4 C.F.R. § 21.2(a)(1); *see AmaTerra Envtl.* Inc., B-408290.2, Oct. 23, 2013, 2013 CPD ¶ 242 at 3. As such, the protester was required to raise this issue prior to the date set for receipt of initial proposals, and cannot timely raise it now, after award. *Draeger, Inc.*, B-414938, Sept. 21, 2017, 2017 CPD ¶ 308 at 5 (dismissing challenge to the solicitation where protester waited until after award to protest).

In this regard, the agency points to the SOW's provision that proposals include approaches to "[s]upport[ing] requirements definition, scheduling, performance, integration, and test planning within and across satellite operations centers, integration labs, and [agency] programs," developing "Flight Test Readiness assessment[s]," and "[a]ssist[ing] with space layer assessments" and associated analysis. COS at 9, *citing* SOW at 66. Also, the SOW required offerors to "[p]rovide traces between proposed test events and system requirements," and to "[p]repare evaluation criteria and participate in assessments performed at engineering technical reviews," which the contracting officer explains comprises a subset of test objectives. SOW at 66. Further, the SOW required the provision of support for "flight test preparation" including the generation and vetting of flight test requirements, which again "typically includes objectives." COS at 9, *citing* SOW at 70-71. Rather than describing an approach to analyzing flight and ground test data in line with these SOW requirements, the evaluators found that MP Solutions, instead, "frequently described solutions that are not a part of the scope" of the solicitation, such as conducting pre-test performance predictions instead of measuring test results against the test objectives and developing ground test architectures. COS at 9; AR, Tab 8d, MP Solutions' Space Systems Evaluation at 8-9.

MP Solutions contends that, contrary to the evaluators' assessments, the firm's proposal did include the necessary information addressing the requirements of the SOW, and the evaluators unreasonably ignored this information. Protest at 19-23, *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 19-21. In support of its argument, MP Solutions quotes large sections of text from its proposal. Protest at 19-23. MP Solutions, however, provides little explanation of how the quoted passages address the missing items noted by the evaluators. For example, in response to two aspects of the deficiency, MP Solutions represents that: "The proposal does mention evaluating test objectives as shown below in 4.3-1 where it provides a detailed process flow of all analysis and define 'Key Results' of the analysis." Protest at 19. The protester follows this statement with the insertion of a table taken from its proposal, without explanation or elaboration as to the relevance of the content of the table. *Id*. In another example, MP Solutions quotes two paragraphs from its proposal and then argues without explanation: "Both of these statements clearly demonstrate an understanding that [MP Solutions'] role and purpose is to ensure accuracy, proper setup, and collaboration with existing tool sets to allow for a proper representation of the system being tested." *Id.* at 20.

With respect to another aspect of the deficiency, MP Solutions maintains that: "its proposal clearly addressed all areas and compares pre-performance predictions which would be used to set expectations and objectives for the experiment, followed by post-test analysis that clearly compares pre-test expectations synonymous with objectives, to post-test performance results." Protest at 21. This explanation, however, only echoes the use of pre-performance predictions that the evaluators found problematic without delineating how, as MP Solutions claims, the firm's pre-performance predictions are "synonymous with" the test objectives against which the agency maintains the test results must be measured. Moreover, the quoted portion of MP Solutions' proposal that follows this explanation specifically provides that the firm

planned to use "a pre-test prediction report . . . [to] provide a basis for assessing actual post-test performance." *Id.*, *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 20.

Similarly, with respect to the real world events aspect of the deficiency--in which the evaluators noted that MP Solutions' proposal to "update and inform digital representations of MDA systems" represented a "fundamental misunderstanding of the scope of the contract"--MP Solutions' protest acknowledges that its proposal provided that the firm "would update in-house models" because "[o]therwise, real world collections would serve no purpose." Protest at 22; AR, Tab 8d, MP Solutions' Space Systems Proposal at 9. In other words, MP Solutions protest confirms that its proposal offered the exact approach that the evaluators concluded was at cross-purposes with the scope of the solicited services.

While MP Solutions expresses its belief that its proposal adequately and accurately responded to the solicitation's requirement for analysis of flight and ground test data, the evaluators found otherwise. Based on our review of the record, we find no basis to conclude that the evaluators' findings were unreasonable. Nor are we able to discern from MP Solutions' protest how the cited provisions of its proposal indicate that the evaluators ignored information in the proposal or otherwise unreasonably assessed a deficiency under the space systems subfactor element 3a. In our view, MP Solutions' protest arguments related to this element amount to nothing more than disagreement with the agency's evaluation of the firm's proposal, which is insufficient to establish that the agency acted unreasonably. *See e.g., BNP Education Partners LLC d/b/a/ Marzano Research.*, *supra* at 9 (finding that protester's "belief that its proposal sufficiently conveyed" certain information provided no basis to question the evaluators' conclusion that it did not); *Environmental Restoration, LLC*, *supra* at 13 (denying protest where the information the protester pointed to in its proposal as having been ignored was not clear on its face as to how it addressed the missing requirements). Accordingly, we deny MP Solutions' challenge to the assessment of this deficiency.

Space Systems Element 3c--Supporting the Development of Digital Scenarios

The record reflects that the evaluators assessed a deficiency in MP Solutions' proposal under space systems subfactor element 3c, because the proposal did "not demonstrate an adequate approach to and understanding of development of digital scenarios."[6] AR, Tab 8d, MP Solutions' Space Systems Evaluation at 10. The evaluators explained that "when building a digital scenario, one must create a background against which a target will fly, add a target, the object the space system must detect, and then add environmental issues like clouds or ice crystals that can cause issues with sensors." *Id.* The evaluators found that while MP Solutions' proposal "mention[ed] all these things," it did so "in a generic manner." *Id.* As an example, the evaluators noted that, with

[6] The full description of element 3c is: "Supporting the development of digital scenarios to include natural backgrounds and threat trajectories to evaluate space system performance and 'what if' analyses." RFP § M at 10.

respect to adding targets, MP Solutions' proposal stated it would "add threat trajectories based on the geo-referenced position of the object relative to scene and signature data provided." *Id.* As a further example, with respect to environments, the evaluators cited to the proposal's statement that "based on defined requirements, we add cloud samples or other weather effects at multiple altitudes, opacities, and distributions." *Id.* at 10-11. The evaluators concluded that MP Solutions' generic treatment of digital scenarios was a material failure, and that:

> This material failure increases the risk of contract performance to an unacceptable level because the proposal failed to provide an adequate approach to accomplishing these complex tasks, discuss what tools will be used, or what formats the input data needs to be in, or what format the output will be in. All of which are critical issues to compatibility with the applications and models that will use this data.

Id. at 11.

MP Solutions argues that the evaluators' assessment of this deficiency was unreasonable because it "disregards material portions of [MP Solutions'] proposal." Protest at 25. Specifically, MP Solutions maintains that its proposal provided "a detailed response to digital scene generation, both providing a graphic workflow in Figure 4.3-2 identifying the key steps, drivers, models, involved stakeholders and coordination forums," as well as including "a full-page description of the technical steps involved, parameters of interest, and necessary data sets provided both internally and externally to the organization." *Id.* For example, MP Solutions represents that its proposal "outline[d] the need to develop scenes with the appropriate ground sample distance to account for sensor pixel size, consider sensor blur and streaking, identified natural weather like clouds, solar illumination, and season, as well as sea states which further complicate ground clutter." *Id.* at 25-26. As a further example, MP Solutions explains that its proposal "define[d] how targets need to be scaled properly with the viewing sensor considered and how different wave bands affect target signatures." *Id.* at 26. In support of its contentions, MP Solutions quotes sections from pages 16-17, 19, and 23 of the space systems portion of its proposal. *Id.* at 26-29.

The record here does not support MP Solutions' contention that the evaluators ignored information in the firm's proposal. Rather, the record indicates that several of the proposal passages cited by MP Solutions in support of its protest allegation were also quoted by the evaluators in their conclusion that, while the protester's proposal mentioned all the right things, the proposal's discussion of digital scenarios was simply generic in nature. *Compare* AR, Tab 8d, MP Solutions' Space Systems Evaluation at 10-11 to Protest at 27 and 29 *citing* AR, Tab 7d, MP Solutions' Space Systems Proposal at 23. Additionally, the agency explains that while MP Solutions' proposal lists multiple different "tools and enablers" to generate scene data or develop digital scenarios, it "does not describe with convincing rationale how these listed tools and enablers will be applied in a detailed technical approach to generate digital scenarios." COS at 10; AR, Tab 16b, Pre-Award Debrief Response to Questions at 10. According

to the agency, MP Solutions' proposal "did not describe how [MP Solutions] would use these models, what process they would use or what kind of expertise they had to use them." COS at 10.

It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation requirements, and an offeror risks having its proposal evaluated unfavorably where it fails to submit an adequately written proposal. *Environmental Restoration, LLC*, *supra* at 9, 13. Further, the solicitation here expressly provided that "[t]he proposal shall be clear, concise, and shall include sufficient detail for effective evaluation by the Government and for substantiating the validity of stated claims," and "shall provide convincing rationale to address how the Offeror intends to meet the areas evaluated." RFP § L at 11.

While MP Solutions expresses its belief that its proposal adequately and accurately responded to the solicitation's requirement for development of digital scenarios, the evaluators found otherwise. Based on our review of the record, we find no basis to question the evaluators' findings. Nor are we able to discern from MP Solutions' protest arguments how the cited provisions of its proposal indicate that the evaluators ignored information in the proposal when some of that same information was cited by the evaluators as a basis for the deficiency finding. MP Solutions' allegations related to this element, again, amount to nothing more than disagreement with the agency's evaluation of the firm's proposal, which is insufficient to establish that the agency acted unreasonably. *See e.g., BNP Education Partners LLC d/b/a/ Marzano Research.*, *supra* at 9. As such, this allegation is similarly denied.

Competitive Range Determination

MP Solutions challenge to the agency's competitive range determination derives from its contentions that the agency applied unstated evaluation criteria and ignored information in MP Solutions' proposal in assessing multiple deficiencies, significant weaknesses, and weaknesses. Protest at 63-64. Specifically, MP Solutions argues that, but for the alleged evaluation errors, the firm's proposal would have received higher ratings and been included in the competitive range. *Id.* The agency responds that the evaluation record shows MP Solutions' proposal was evaluated in accordance with the criteria set forth in solicitation section M and reasonably found to be unacceptable. MOL at 35.

Contracting agencies are not required to include a proposal in the competitive range when the proposal is not among the most highly rated. FAR 15.306(c)(1). The determination of whether a proposal is in the competitive range is principally a matter within the judgment of the procuring agency. *BNP Education Partners LLC d/b/a Marzano Research, supra* at 16. We will review that judgment only to ensure that it was reasonable and in accord with the solicitation and applicable statutes and regulations. *Cyberdata Techs., LLC.*, *supra* at 6

Here, as discussed above, the record provides no basis for us to question the agency's evaluation of MP Solutions' proposal under the space systems subfactor, which resulted in the assessment of multiple deficiencies and assignment of technical and risk ratings of unacceptable. Thus, the record also provides no basis for us to question the SSA's decision to exclude MP Solutions' unacceptable (*i.e.* unawardable) proposal from the competitive range. *See* RFP § M at 7. Accordingly, we deny MP Solutions' challenge to its exclusion from the competitive range. *See e.g., BNP Education Partners LLC d/b/a Marzano Research, supra* at 15-16 (finding no basis to question the agency's decision to exclude the protester's proposal from the competitive range where the evaluators assessed multiple deficiencies in the proposal and assigned it a rating of unsatisfactory under the most important evaluation factor).

Procurement Integrity Act

Finally, we address the protester's allegation that the agency violated the PIA. Relevant here, on August 16, 2022, nTSI filed a request to intervene in the instant protest. Req. to Intervene at 1. In its request, nTSI stated it "understands that it is the sole remaining offeror in the competitive range." *Id.* MP Solutions, in response to the request to intervene, submitted a supplemental protest on August 22, asserting that the only way nTSI could have known that nTSI was the sole remaining offeror in the competitive range, was from the improper disclosure of source selection information to nTSI by someone at MDA, because "[o]nly MDA possesses and controls the source selection information." Supp. Protest at 4. MP Solutions contends that such disclosure violated the PIA, gives nTSI an unfair competitive advantage, and is prejudicial to MP Solutions. *Id.* at 5. MP Solutions maintains that because "[o]nly nTSI will be able to use the knowledge of its highest ranking among competitors to improperly aid in its discussions and negotiations with MDA for award of the contract," it is, therefore, not "possible to repair the competitive harm caused by this disclosure," other than by revising the solicitation and accepting new initial proposals. *Id.* We refer to this argument as the 1st PIA allegation.

The PIA provides, among other things, that except as provided by law, a person shall not knowingly disclose or obtain contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates. 41 U.S.C. § 2102. The FAR provides that a contracting officer who receives or obtains information of a violation or possible violation of the PIA must determine if the reported violation or possible violation has any impact on the pending award or selection of the contractor. FAR 3.104-7(a).

In response to the supplemental protest, the contracting officer reviewed the protester's allegation of a PIA violation. AR, Tab 17, Contracting Officer PIA Determination. As part of this review, nTSI submitted a declaration from the program manager for nTSI's offer, clarifying the statement made in the intervention request. AR, Tab 18, nTSI Decl. The nTSI program manager stated:

> Neither the MDA Notice of Pre-Award Protest nor any other MDA communication to nTSI disclosed that nTSI was the sole remaining offeror in the competitive range. . . . nTSI based its understanding [that it was the only remaining competitor] upon an inference supported by public information and nTSI's incumbent knowledge. nTSI did not base its understanding upon any disclosure by MDA regarding nTSI's status in the competitive range. . . . nTSI based its inference upon public information and its incumbent knowledge, including the following:

Id. at 1-2. The nTSI program manager then provided a listing of the publicly available information upon which the firm "drew a reasonable inference that [MP Solutions'] exclusion from the competitive range would likely leave nTSI as the sole remaining offeror in the competitive range."[7] *Id.* at 2.

Based on this explanation and "a review of the letter to request evaluation notices, the evaluations notices themselves, and letter to request the Final Proposal Request provided to nTSI," the contracting officer concluded that no disclosure of source selection information occurred. AR, Tab 17, Contracting Officer PIA Determination at 2.

On this record, we find no basis to sustain MP Solutions' 1st PIA allegation.[8] *See e.g., Phoenix Mgmt., Inc.*, B-405980.7 *et al.*, May 1, 2012, 2012 CPD ¶ 219 at 4-5 (denying

---

[7] The sources of information cited to by nTSI's program manager include a redacted copy of MP Solutions' protest received by nTSI, information about MP Solutions' proposed team gleaned from sources such as the websites LinkedIn.com and OpenGovUS.com, as well as knowledge about the makeup of the incumbent workforce, 65 percent of which nTSI offered to deliver in its proposal. AR, Tab 18, nTSI Decl. at 2.

[8] MP Solutions also suggests that the alleged disclosure by MDA "gives nTSI an unfair competitive advantage and is prejudicial" to MP Solutions. Supp. Protest at 4-5. Even if, for the sake of argument, the disclosure had occurred, the protester does not explain with any clarity how nTSI's knowledge that it is the only remaining offeror, creates an unfair competitive advantage. MP Solutions maintains that "nTSI will be able to use the knowledge of its highest ranking among competitors to improperly aid in its discussions and negotiations with MDA for award of the contract," but other than providing this conclusory statement, MP Solutions provides no elaboration as to how this knowledge would be competitively useful. *Id.* at 5. Nor does MP Solutions explain how it--an offeror that was eliminated from the competition prior to the alleged disclosure of source selection information--was competitively prejudiced by any advantage that may exist for nTSI. When an improper disclosure of source selection information occurs and an agency chooses not to cancel the procurement after such disclosure, we will sustain a protest based on the improper disclosure only if the protester demonstrates that the recipient of the information received an unfair advantage, or that it was otherwise competitively prejudiced by the disclosure. *S&K Aerospace, LLC*, B-411648, Sept. 18, 2015, 2015 CPD ¶ 336 at 8. Here, even assuming there was an improper disclosure,

protester's PIA allegation where agency followed applicable FAR procedures in conducting its investigation and concluding that no violation occurred); *QinetiQ North America, Inc.*, B-405163.2 *et al.*, Jan. 25, 2012, 2012 CPD ¶ 53 at 11 (denying protester's PIA allegation where agency's actions in investigating were reasonable and the record did not show the protester was prejudiced by any possible disclosure).

In response to the contracting officer's PIA finding, MP Solutions' next asserted that even if nTSI's August 16 representation in its request to intervene was based on an unconfirmed guess, and not a disclosure of source selection information, the contracting officer's analysis stopped at August 16. Comments at 35. As a result, the contracting officer ignores that on August 18, while the procurement was still in the pre-award stage, "MDA itself confirmed nTSI's unconfirmed guess by disclosing outside of the protective order that nTSI is in fact the sole remaining offeror in the competitive range."[9] Comments at 35. Specifically, MP Solutions contends that the agency's posting in the protest docket of the comment that "the Agency confirms that nTSI is the only offeror in the competitive range," was a public disclosure of source selection information as postings in a protest docket are not considered to be behind the barrier of the protective order issued by our Office in this matter. *Id., citing* Dkt. No. 19. We refer to this argument as the 2nd PIA allegation.

The agency requests that we dismiss as untimely the 2nd PIA allegation. Supp. MOL at 2-4. Specifically, the agency contends that while MP Solutions acknowledged the existence of the agency's docket posting in its supplemental protest, the protester did not argue that the posting was itself a disclosure of source selection information in violation of the PIA--*i.e.*, the protester did not raise the 2nd PIA allegation--until MP Solutions submitted its comments on the agency report on September 22. *Id.* at 3, *citing* Supp. Protest at 2; Comments at 35-36. The agency argues that because September 22 was more than ten days after MP Solutions knew the basis of the 2nd PIA allegation, it is untimely. 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 represent

---

MP Solutions has failed to make the requisite showing of an unfair advantage or competitive prejudice.

[9] Upon receiving the request to intervene on August 16--and before the protester filed its supplemental protest--our Office posted (on the same day) the following minute entry in the Electronic Protest Docketing System to ascertain whether granting intervenor status to nTSI was appropriate: "nTSI, LLC requests to intervene in this protest and represents it is the sole offeror remaining in the competitive range. *See* Dkt. No. 13. By 2 pm Eastern on 8/19, GAO requires the agency to confirm whether nTSI is the only remaining offeror." Dkt. No. 18. On August 18, in response to our request, the agency posted the following comment in the Dkt.: "The Agency does not object to the request to intervene by nTSI. Further, the Agency confirms that nTSI is the only offeror in the competitive range." Dkt. No. 19.

their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. *Logistics Mgmt. Inst.*, B-417601 *et al.*, Aug. 30, 2019, 2019 CPD ¶ 311 at 14. Under these rules, protests based on other than alleged improprieties in a solicitation must be filed "not later than 10 days after the basis of protest is known or should have been known." 4 C.F.R. § 21.2(a)(2). Additionally, when a protester initially files a timely protest, and later supplements it with independent grounds of protest, the later-raised allegations must independently satisfy our timeliness requirements. *Savvee Consulting, Inc.*, B-408416.3, Mar. 5, 2014, 2014 CPD ¶ 92 at 5.

Our regulations do not contemplate the unwarranted piecemeal presentation or development of protest issues through later submissions citing examples or providing alternate or more specific legal arguments missing from earlier general allegations of impropriety. *BluePath Labs, LLC--Costs*, B-417960.4, May 19, 2020, 2020 CPD ¶ 175 at 6. The piecemeal presentation of evidence, information, or analysis supporting allegations previously made is prohibited. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 4. Our Office will dismiss a protester's piecemeal presentation of arguments that could have been raised earlier in the protest process. 4 C.F.R. § 21.2(a)(2); *see e.g. American Roll-On Roll-Off Carrier Group, Inc.*, B-418266.9 *et al.*, Mar. 3, 2022, 2022 CPD ¶ 72 at 11 n.12 (dismissing as untimely protester's challenges to the agency's responsibility determination raised for the first time in protester's comments on the supplemental agency report because they constituted "new alternate legal arguments" involving facts that were available to the protester in the agency's initial report).

Here, MP Solutions filed its 2nd PIA allegation in a piecemeal manner. MP Solutions filed its 1st PIA allegation in its supplemental protest on August 22, arguing that there must have been an improper disclosure of source selection information prior to August 16 in order for nTSI to represent in its August 16 request to intervene that it was the only remaining competitor. Supp. Protest at 4. In its September 22 comments on the agency report, MP Solutions raised its 2nd PIA allegation, asserting that the agency's August 18 posting in the protest docket constituted an additional improper disclosure of source selection information in violation of the PIA. Comments at 35. Thus, MP Solutions' various filings allege two separate PIA violations. Clearly, MP Solutions learned of its 2nd PIA allegation on August 18, when the agency made the allegedly improper disclosure in the protest docket. Yet, rather than include this separate and distinct 2nd PIA allegation in its August 22 supplemental protest, MP Solutions waited to raise this issue for the first time in its September 22 comments;

more than ten days after MP Solutions learned the basis of its protest.[10] Accordingly, we dismiss as untimely MP Solutions' 2nd PIA allegation. *See American Roll-On Roll-Off Carrier Group, Inc., supra* at 11 n.12.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

[10] We note that MP Solutions' attempt to frame its second PIA allegation as a comment, rather than as a supplemental protest allegation, is not dispositive. As discussed above, the contention of a second, separate PIA violation was an entirely new line of argument--*i.e.*, a supplemental protest ground--and as such, it must independently satisfy our timeliness requirements. *Savvee Consulting, Inc., supra.*