



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: SeaTech Security Solutions; Apogee Group, LLC

File: B-419969.6; B-419969.7

Date: April 21, 2023

Antonio R. Franco, Esq., Katherine B. Burrows, Esq., Jacqueline K. Unger, Esq., Kevin T. Barnett, Esq., and Daniel J. Figuenick III, Esq., Piliero Mazza, for SeaTech Security Solutions; Nicole D. Pottroff, Esq., Shane J. McCall, Esq., John L. Holtz, Esq., Stephanie L. Ellis, Esq., and Gregory P. Weber, Esq., Koprince McCall Pottroff LLC, for Apogee Group, LLC, the protesters.

Robert K. Tompkins, Esq., Gregory H. Koger, Esq., Kelsey M. Hayes, Esq., Richard Ariel, Esq., and Sean R. Belanger, Esq., Holland & Knight LLP, for K2 Construction Consultants, Inc., the intervenor.

Eric M. Steinberg, Esq., and Brian C. Habib, Esq., Department of Homeland Security, 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. Protests challenging the agency's evaluation of awardee's past performance are denied where, consistent with the terms of the solicitation, the agency reasonably found the awardee's past performance to be relevant.
2. Protester's contention that the agency unreasonably evaluated the protester's proposal is denied where the protester's arguments reflect nothing more than disagreement with the agency's evaluation. Further, the protester's characterization of the agency's discussions as misleading is not supported by the record, which shows the protester made its own independent business judgment regarding how to respond to the agency's identified concerns.
3. Protester's argument that the agency unreasonably assessed its proposal with a negative finding is denied because the alleged evaluation error did not result in competitive prejudice to the protester.

4. Protests challenging the agency's best-value tradeoff source selection decision are denied because the record shows the tradeoff was reasonable and consistent with the solicitation.

DECISION

SeaTech Security Solutions (S3), a small business joint venture¹ of Richland, Washington, and Apogee Group, LLC, a small business also of Richland, Washington, protest the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to K2 Construction Consultants, Inc., a small business of Bethesda, Maryland, under request for proposals (RFP) No. 70RWMD20R0000012. The Department of Homeland Security (DHS) issued the RFP for radiation portal monitor (RPM) deployment services. The protesters challenge multiple aspects of the agency's evaluation of proposals and resulting best-value tradeoff source selection decision.

We deny the protests.

BACKGROUND

The agency issued the solicitation on October 16, 2020, as a small business set-aside using the procedures of Federal Acquisition Regulation (FAR) part 15. Contracting Officer's Statement in S3 Protest (S3-COS) and Contracting Officer's Statement in Apogee Group Protest (AG-COS) at 4; Agency Report (AR) Tab 6f, RFP § B at 5.² The agency sought proposals for RPM deployment services, including the design, construction, and installation of RPMs at the following five point of entry "vectors": (1) land borders; (2) seaports; (3) international airports; (4) preclearance airports; and (5) international mail and express consignment courier facilities. RFP § C at 6, 11.

The solicitation contemplated award of a single IDIQ contract with a mix of fixed-priced, time-and-materials, and cost-reimbursable contract line item numbers (CLINs); a 5-year ordering period; a minimum guarantee of \$25,000; and a maximum value of \$253 million. RFP § B at 5. The solicitation established that award would be made on a best-value tradeoff basis using a two-phase source selection process in which "Phase I evaluation ratings [would] be used to select Phase II candidates"--*i.e.*, a down-select. RFP § M at 131. The solicitation provided that the agency's best-value tradeoff process

¹ Sealaska Technical Services, LLC and Tetra Tech, Inc. are the two small business entities comprising the S3 joint venture.

² Our citations to documents in the agency reports use the documents' Adobe PDF pagination. The agency provided individual reports responding to each protest using a uniform system of identifying documents and numbering agency report tabs. We cite to the two reports generally as a singular "AR," except where necessary to differentiate between different documents or different versions of the same document included in the two reports. Unless otherwise noted, our citations to the solicitation are to the conformed copy of the RFP included in the agency report at tab 6f.

would take into consideration the evaluations from both phases, with non-price factors, when combined, being significantly more important than price. *Id.*

The phase I evaluation factors were: (1) RPM site design, construction, and installation experience; (2) program management approach; (3) design-build and design-bid-build experience; (4) corporate experience; and (5) past performance. The solicitation listed the phase I factors in descending order of importance, with the first factor (RPM site design, construction, and installation experience) being significantly more important than the remaining four factors. RFP § M at 131. The phase II evaluation factors were: (1) sample task order design, engineering, and technical services for RPM installation and relocation at the ports of Los Angeles/Long Beach, California--*i.e.*, sample task technical solution; (2) project management approach; (3) key personnel qualifications; and (4) sample task order technical solution cost--*i.e.*, price. *Id.* at 131-132. Again, the solicitation listed the phase II factors in descending order of importance, with the first factor (sample task technical solution) being significantly more important than the remaining three factors, and the three non-price factors, when combined, significantly more important than price. *Id.* at 132.

The agency received five timely phase I proposals, including those submitted by S3, Apogee, and K2. S3-COS & AG-COS at 4. Based on the evaluation of phase I proposals, one offeror was eliminated from the competition and the four remaining offerors--including S3, Apogee, and K2--were invited to submit phase II proposals. *Id.* at 4-5. In June of 2021, the agency selected K2's proposal for award. *Id.* at 5. Following notification of the award decision, S3 and Apogee filed protests with our Office. *Id.* In response to the protests, the agency notified us of its intent to take corrective action by reevaluating proposals and making a new source selection decision, resulting in our dismissal of the protests as academic. *SeaTech Security Solutions*, B-419969, July 29, 2021; *Apogee Group, LLC*, B-419969.2, July 29, 2021 (unpublished decisions). In March of 2022, after reevaluating proposals, the agency again selected K2 for award, and S3 and Apogee filed protests with our Office challenging the agency's second source selection decision. S3-COS & AG-COS at 6. The agency, again, notified us of its intent to take corrective action by reevaluating proposals and making a new source selection decision, resulting in our dismissal of those protests as academic. *SeaTech Security Solutions*, B-419969.3, Apr. 20, 2022; *Apogee Group, LLC*, B-419969.4, B-419969.5, Apr. 20, 2022 (unpublished decisions).

As part of the second reevaluation, the agency conducted discussions with the four remaining offerors and requested final proposal revisions (FPR) for both phase I and phase II. S3-COS & AG-COS at 6; S3-AR & AG-AR, Tabs 5b, Source Selection Decision at 3-4. The evaluators assigned the FPRs submitted by S3, Apogee, and K2 the highest possible rating of "high confidence" under each of the non-price factors.³

³ With the exception of past performance, all non-price evaluation factors were assigned one of three possible confidence ratings: high confidence, some confidence, and low confidence. For past performance, a rating of neutral confidence also was available.

S3-AR & AG-AR, Tabs 5b, Source Selection Decision at 6. The three offerors submitted the following proposed pricing under the sample task technical solution cost factor: Apogee-\$12,798,460; K2--\$14,730,092; and S3--\$14,916,221.⁴ *Id.*

Based on the evaluators' findings and a comparative assessment of proposals, the source selection authority (SSA) concluded that there was "high confidence in K2's technical capability and approach," that the firm's "proposal [was] well balanced across all the evaluated areas and provide[d] a fair and reasonable price," and that K2's proposal offered the best value to the government. S3-AR & AG-AR, Tabs 5b, Source Selection Decision at 7, 25. Specifically, as compared to S3's higher-priced proposal, the SSA found that K2's proposal was superior to S3's proposal under four factors, while "S3's proposal was not determined to be better than K2's proposal for any factor." S3-AR, Tab 5b, Source Selection Decision at 24. The SSA further noted that while both offerors provided technical benefits, K2 offered "a superior technical proposal at a lower price" than S3. *Id.* Conversely, as compared to Apogee's lower-priced proposal, the SSA found that "[t]he potential price savings offered by Apogee [were] outweighed by the additional benefits provided by K2" under the program management approach, sample task technical solution, and project management approach factors. AG-AR, Tab 5b, Source Selection Decision at 13.

After being notified of the agency's selection of K2 for award and receipt of debriefings, S3 and Apogee filed these protests with our Office. S3-COS & AG-COS at 7.

DISCUSSION

Both protesters challenge the agency's evaluation of K2's past performance, primarily contending that the awardee lacks relevant past performance. Both protesters also take issue with the agency's technical evaluation of their own proposals, maintaining that various negative findings were unreasonably assessed. S3 further asserts that the agency engaged in misleading discussions about the negative findings in the firm's proposal. Finally, both protesters challenge the agency's best-value tradeoff. Although we do not address each of the protesters' numerous arguments, we have considered them all and find that none provides a basis to sustain the protests. Below, we discuss representative examples of the protesters' challenges.

Dismissed Arguments

As an initial matter, we dismissed several of the challenges raised by the protesters. Arguing that the awardee lacks experience, S3 challenged the evaluation of K2's

S3-AR & AG-AR, Tabs 5b, Source Selection Decision at 6. Along with adjectival ratings, the evaluators also would assess positive and negative findings to elements of a proposal. S3-AR & AG-AR, Tabs 8a, Phase I Technical Evaluation Team (TET) Final Report at 11.

⁴ The fourth offeror is not relevant to the decision and is not discussed further.

proposal under several aspects of the phase I and phase II evaluation. See generally S3-Protest at 16-27. Similarly, Apogee also questioned the awardee's experience through challenges to the evaluation of K2's proposal under phase I. See generally AG-Protest at 13-16. Prior to submission of its reports responding to the protests, the agency requested dismissal of these arguments, and we agreed that dismissal was appropriate. S3-Notice of Partial Dismissal at 1-2; AG-Notice of Partial Dismissal at 2.

The protesters argued that K2 did not provide past performance references that demonstrated its experience as a prime contractor. Specifically, as support for its challenges, S3 represented that K2 does not have "any documented federal prime contracts" for the type of work contemplated by the solicitation, and, thus, its proposal should not have been evaluated as meriting the highest possible rating for these two factors. S3-Protest at 16. For its part, Apogee also represented that K2 "has *no performance* on any government awards as prime contractor," and that its past performance was "limited to work on airport security screening installations," which are not the same as RPMs. AG-Protest at 14. The solicitation, however, established that the agency would evaluate offerors under these two factors "based on their team's experience." RFP § M at 132-133. Neither evaluation factor required that any amount of an offeror's proffered performance or experience references be for the prime contractor (unlike the past performance factor, which required at least one reference to be specifically for the prime). *Id.*; RFP § L at 120. Because the solicitation contemplated an evaluation of the experience of an offeror's team, the protesters' arguments based solely on K2's lack of prime experience under the non-past performance experience factors amounted to an argument that the agency should have evaluated in a manner inconsistent with the solicitation. S3-Notice of Partial Dismissal at 3; AG-Notice of Partial Dismissal at 4. Accordingly, we dismissed these challenges to K2's evaluation. *Id.*, citing *ASRC Fed. Data Solutions, LLC*, B-417655 *et al.*, Sept. 18, 2019, 2019 CPD ¶ 325 at 4.

With respect to S3's additional challenges to K2's evaluation under the phase II sample task price factor, the protester maintained that due to K2's alleged lack of experience "it [was] likely that K2's pricing and cost elements" were "unrealistic, reflect[ed] a failure to comprehend the contract requirements, and inject[ed] an unacceptable amount of risk into [K2's] ability to" perform. S3-Protest at 19. Further, S3 contended that as K2's alleged lack of experience likely resulted in its submission of a flawed pricing proposal, this "inaccurate and unrealistic price" also created unacceptable levels of risk that should have been considered under the phase I program management approach, phase II sample task technical solution, and phase II project management approach factors. *Id.* at 25-26. S3 provided no support, however, for its assumptions regarding the "likely" errors in K2's pricing proposal. Accordingly, we dismissed, these additional challenges to K2's evaluation, as S3's unsupported speculation and conclusory statements failed to set forth a legally sufficient basis of protest. S3-Notice of Partial Dismissal at 5, citing *Systems Implementers, Inc.; Transcend Technological Systems, LLC*, B-418963.5 *et al.*, June 1, 2022, 2022 CPD ¶ 138 at 21 n.9; *Chags Health Information Technology, LLC*, B-420940.3 *et al.*, Dec. 14, 2022, 2022 CPD ¶ 315 at 5-6.

Apogee also initially argued that the agency evaluated in a disparate manner by considering K2's proposal superior to Apogee's proposal under the phase II sample task technical solution and project management approach factors. AG-Protest at 16. Apogee, however, did not identify any particular aspect of its proposal that the agency unreasonably or disparately evaluated. Instead, Apogee, presented only a general contention of disparate treatment without further support, which we found amounted to "a naked conclusion" that failed to set forth a factually sufficient basis of protest. AG-Notice of Partial Dismissal at 5. As such this argument also was dismissed. *Id.*, citing *Eagle Techs., Inc.*, B-420135.2 *et al.*, June 22, 2022, 2022 CPD ¶ 198 at 7.

Past Performance Evaluation

Turning to the remaining challenges, both protesters take issue with the agency's assessment that K2's proposal merited the highest possible rating under the past performance factor, as both protesters represent that K2 lacks relevant past performance. See generally S3-Protest at 11-16; AG-Protest at 13-15. The agency responds that the protesters' assertions regarding K2's alleged lack of past performance are incorrect, and that "K2 provided, and the Agency evaluated, five recent and relevant past performance references consistent with the RFP's instructions." S3-Memorandum of Law (MOL) at 18; AG-MOL at 27.

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion, which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *Teya Enters., LLC*, B-420907, Oct. 24, 2022, 2022 CPD ¶ 266 at 2-3. When a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable, consistent with the solicitation's evaluation criteria, and with applicable procurement statutes and regulations. *Id.*; *Apogee Eng'g, LLC*, B-414829.2, B-414829.3, Feb. 21, 2019, 2019 CPD ¶ 85 at 6.

As relevant here, the solicitation required offerors to submit past performance references for at least three, and as many as five, recent and relevant contracts. RFP § L at 120. The solicitation provided that an "Offeror shall include at least one design-build and at least one design-bid-build construction delivery method" contract reference. *Id.* Further, the solicitation permitted offerors to submit "a mix of the past performance for the prime and subcontractor," but mandated that "at least one [reference] shall be of the prime." *Id.* The solicitation defined recent references as those "having occurred during the past ten (10) years," and defined relevant as references for "RPM systems (for scanning vehicles) and/or ancillary equipment for the RPM or similar systems in size, technical complexity, and scope of the system solicited in this RFP." *Id.*

The RFP advised that offerors' past performance would be evaluated "to assess the level of confidence the Government has that the offeror will be successful in performing the tasks outlined in the [statement of work]." RFP § M at 134. Additionally, the agency

would “evaluate the quality of the offeror’s (construction and design team) past performance by determining how well the contractor performed on the submitted relevant contracts.” *Id.* In conducting the evaluation, the agency would “consider the source and context of the [past performance] information, any general trends in the information, and the Offeror’s responses to any negative past performance information and associated corrective actions.” *Id.*

The record reflects that K2 submitted five references, all of which the evaluators found to be “specific or relevant to RPM deployments.” S3-AR and AG-AR, Tabs 8a, Phase I TET Final Report at 32. One of K2’s five references was for the firm’s own work on a contract “to develop 6 passenger security lanes using TSA [Transportation Security Agency] design standards” at the Los Angeles International Airport (LAX), which the evaluators considered similar in size and scope, though less technically complex than the solicited effort. *Id.* The remaining four of K2’s references were for its subcontractor teaming partners, and all four were considered recent and relevant. *Id.* at 32-34. The evaluators found that, collectively, the five references demonstrated K2 had “[s]ignificant recent, and relevant experience in installing RPMs that [were] similar to the size, technical complexity, and scope of the RFP.” *Id.* at 32. Further, the evaluators noted that the feedback ratings for K2’s references ranged “from good to outstanding with the majority of ratings as outstanding.” *Id.* at 32, 34. Based on these findings, the evaluators assigned K2’s proposal a rating of “high confidence” under the past performance factor. *Id.* at 32.

Both S3 and Apogee contend that the agency erred in finding relevant the single reference K2 submitted for itself as the prime--*i.e.*, that K2 should have been found to have submitted no relevant references for itself as the prime--as required by the solicitation. S3-Comments at 3, 8; AG-Comments at 10. In support of their contention, both protesters point to the contemporaneous evaluation record in which the evaluators noted the following with respect K2’s reference for development of six passenger security lanes: “Size, and scope of the projects are similar as the RFP for Pre-clearance projects with the exception that the technical complexity was less difficult because Pre-clearance projects are executed in foreign countries.” S3-Comments at 6; AG-Comments at 10-11, *both citing* AR, Tabs 8a, Phase I TET Final Report at 32. Apogee maintains that “[t]his language clearly indicates that the Agency did not find K2’s proposed past performance relevant as it lacked the complexity of the highly technical work contemplated by the Solicitation.” AG-Comments at 11. Similarly, S3 argues that “the clear meaning is that K2’s only project reference was less complex--and not similar to the RFP’s scope of work.” S3-Comments at 6.

Here, the protesters’ argument is premised on the assumption that there is a requirement for past performance references to be the same as the solicited work. No such requirement exists in the solicitation, however. Rather, the solicitation’s definition of relevant past performance required only that reference projects be *similar* in size, scope, and technical complexity to the solicited work and involve “RPM systems (for scanning vehicles) and/or ancillary equipment for the RPM *or similar* systems.” RFP § L at 120 (emphasis added).

The agency explains that “the TET concluded although the work was slightly less complex than a Pre-clearance project, due to the work being executed in the U.S., the work was very similar in terms of size and scope in comparison to the RFP.” S3-COS at 18; AG-COS at 24. The agency also notes that the solicitation requires performance of both pre-clearance projects and projects in the United States. *Id.* Specifically, the agency notes that international airports, such as LAX, are one of the five point of entry vectors at which the solicitation requires performance. S3-COS at 30. Further, the agency explains that “the design, installation, commissioning, and associated connectivity requirements are the same for Pre-clearance airports and U.S. International Airports,” and that the project being for six lanes “was the same or more than similar Pre-clearance projects.” S3-AR, Tab 44, Statement of TET Chair at 2; AG-AR, Tab 45, Statement of TET Chair at 2. Additionally, while K2’s work at LAX did not involve installation of RPMs, the agency concluded it involved similar systems such as specialized types of x-ray machines, metal detectors, explosive trace detectors, and bottle liquid scanners. S3-COS at 29.

Both protesters characterize the agency’s explanation as *post hoc* rationalization, which they maintain is inconsistent with the contemporaneous record, and, as such, should be given no credence. S3-Comments at 7; AG-Comments at 11. Our decisions consistently have explained that we will not limit our review to contemporaneous evidence, but also will consider post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, when those explanations are credible and consistent with the contemporaneous record. *Teya Enters., LLC, supra* at 5 n.6. Contrary to the protesters’ assertions, we see nothing inconsistent about the evaluators’ contemporaneous statement that K2’s reference project was similar in size and scope but less technically complex than the RFP, and the agency’s explanation that, despite the reference being less complex, the evaluators’ still considered it similar enough to be considered relevant. Nor does the protesters’ disagreement, without more, provide a basis for us to question the evaluators’ judgment that, while less complex, K2’s reference was sufficiently similar to the RFP’s requirements to be relevant, given the agency’s broad discretion to determine whether a particular contract is relevant to the evaluation of an offeror’s past performance. See e.g., *Innovative Mgmt. Concepts, Inc.*, B-419834.2, B-419834.3, Sept. 20, 2021, 2021 CPD ¶ 319 at 16-17 (denying protest that awardee’s past performance was relevant where even though the submitted references were not “a perfect match to each area of the [performance work statement]” the agency considered them sufficiently similar to be relevant).

Both protesters also contend that the agency’s evaluation was unreasonable because it should have found their own past performance superior to that of K2. Specifically, S3 asserts that “the Agency had no basis for assigning K2 the same High Confidence rating assigned to S3,” which has performed “the type of work called for under the RFP for a substantial number of years and, during that time, has installed . . . RPM systems worldwide.” S3-Protest at 15-16. Similarly, Apogee claims that “any reasonable and objective evaluation and comparison of K2’s and Apogee’s past performance under the Solicitation here would undoubtedly result [in] K2 receiving inferior ratings to Apogee,”

as the protester “has a proven excellent track record deploying RPMs across the globe.” AG-Protest at 13-14.

The record, however, shows the SSA qualitatively compared the past performance of each protester with that of K2 and did not find the protesters’ past performance superior. With respect to protester S3, the SSA noted that K2’s submitted references were for two RPM specific projects and three other projects “for similar security system work,” while S3’s submitted references included four RPM specific projects and one project for the Bureau of Prisons (BOP) that was deemed not relevant.⁵ S3-AR, Tab 5b, Source Selection Decision at 21. Both S3 and K2 received feedback ratings of good to outstanding for their submitted relevant projects, leading the SSA to conclude that “customer feedback for RPM past performance for both K2 and S3 [was] similar with no advantage for either K2 or S3 having more benefit to the Government.”⁶ *Id.* For

⁵ In addition to challenging the relevance of K2’s reference for its LAX project, S3 contends that the agency disparately applied the solicitation’s definition of relevance when it deemed K2’s LAX project to be relevant but not S3’s BOP project. S3-Protest at 38. In its proposal, S3 included a reference for a BOP project during which the protester “[DELETED].” S3-AR, Tab 14a, S3 Phase I Clean Final Proposal at 54. With respect to the “[DELETED] room”, S3’s proposal additionally said only that the project included “[DELETED].” *Id.* at 55. The evaluators concluded that the BOP project was not relevant because it “did not have RPMs or similar equipment requirements.” S3-AR, Tab 8a, Phase I TET Final Report at 46. The protester claims that it is inconsistent with the “principle of fairness” for the agency to find S3’s BOP’s reference not relevant due to a lack of RPMs or ancillary equipment while finding relevant K2’s LAX project that also did not include RPMs or ancillary equipment. S3-Comments at 8-9.

It is a fundamental principle of government procurement that contracting agencies must even-handedly evaluate proposals against common requirements and evaluation criteria, agencies properly may evaluate dissimilar proposals differently. *Battelle Memorial Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 6. Here, S3’s allegation of disparate treatment ignores the entirety of the agency’s evaluation. The evaluators deemed S3’s BOP project not relevant due to (1) the lack of RPMs or RPM-ancillary equipment specifically, and (2) the lack of “similar equipment requirements.” S3-AR, Tab 8a, Phase I TET Final Report at 46. In contrast, as explained above, the evaluators considered K2’s LAX project to involve the installation of similar equipment. Additionally, the agency explains that K2’s LAX project was performed at one of the RFP’s five identified types of point of entry vectors --*i.e.*, an international airport--while S3’s BOP project was being performed at a prison campus, not one of the identified vectors. S3-COS at 30. Based on this record, we conclude that the difference in evaluations reasonably resulted from differences in the proposals, and not, as S3 claims, disparate application of the solicitation’s relevancy standard.

⁶ On two of the past performance questionnaires received for S3’s relevant reference projects, the evaluators noted that feedback ratings ranged “from good to marginal.” S3-AR, Tab 8a, Phase I TET Final Report at 47. In its protest, S3 argues that the

Apogee, the SSA noted the protester submitted three RPM specific references and two others for construction projects that “were relevant to RPM deployments,” with a majority of good to outstanding feedback ratings for the five projects. AG-AR, Tab 5b, Source Selection Decision at 9. Similar to the comparison with S3, the SSA concluded that “[t]here was no significant advantage that could distinguish and justify Apogee or K2 as having more benefit to the Government than the other” under the past performance factor. *Id.*

While both S3 and Apogee insist that it was unreasonable for the agency not to consider their firms’ past performance superior to that of K2, these arguments present nothing more than the protesters’ disagreement with the agency’s evaluation judgment. Such disagreement, without more, is insufficient to render the agency’s judgments unreasonable. Accordingly, we deny the protesters’ challenges to the agency’s

agency improperly failed to give the protester an opportunity to address the negative feedback ratings of marginal, rendering the agency’s conduct of discussions not meaningful. S3-Protest at 37-38. Here, the contemporaneous record shows that the contracting officer conducted further research in the contractor performance assessment rating system (CPARS), and concluded that “S3 received good to outstanding ratings for similar RPM projects.” S3-AR, Tab 5b, Source Selection Decision at 21. The record further reflects that it was only these feedback ratings of good to outstanding that the SSA took into consideration as part of the qualitative comparison of S3’s and K2’s past performance--both of which were assessed as meriting the highest possible rating under the past performance factor. *Id.* Additionally, the agency explains that because “CPARS is the official source for past performance information,” the contracting officer concluded that “the CPARS records offered a more accurate indicator of the quality of the offeror’s past performance than the ‘marginal’ ratings provided on the questionnaire(s),” and as such “did not view the ‘marginal’ feedback for the relevant orders as ‘adverse’ past performance information.” S3-COS at 28-29.

When an agency conducts discussions with offerors in a negotiated procurement, such as the one here, the contracting officer must, at a minimum, “discuss with, each offeror still being considered for award, deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond.” FAR 15.306(d)(3). Here, however, the record indicates that the feedback ratings of marginal were not taken into consideration by the agency, and, in fact, S3’s proposal received the highest possible rating under the past performance factor. Moreover, even were we to conclude the agency erred in not providing S3 an opportunity to respond to the feedback ratings of marginal (ratings which were not considered by the agency), the record demonstrates that S3 did not suffer any competitive prejudice as a result. See *e.g., HP Enter. Servs., LLC; Aon National Flood Servs., B-413967 et al.*, Jan. 17, 2017, 2017 CPD ¶ 26 at 11 (denying protest alleging misleading discussions where the record provided “no basis to conclude that [the protester] would have improved its technical solution” but for a factual inaccuracy in its discussions, and, thus, the protester could not show prejudice).

evaluation of past performance. See e.g., *Teya Enters., LLC, supra* at 5-6 (denying challenge to evaluation of awardee's past performance where protester's arguments expressed nothing more than disagreement with the evaluators' judgments).

Technical Evaluation

While the record reflects the agency assigned the highest possible ratings to both S3's and Apogee's proposals under each evaluation factor, both protesters take issue with the agency's assessment of negative findings in the firms' proposals. See generally S3-Protest at 27-36; AG-Protest at 10-13. S3 also contends that the agency engaged in misleading discussions regarding some of the negative findings. See generally S3-Protest at 27-28, 31-32, 34. The agency responds that its assessment of the challenged negative findings was reasonable and in accordance with the solicitation criteria, and that its conduct of discussions reasonably led offerors into the areas of concern with their proposals. See generally S3-MOL at 24-37; AG-MOL at 16-27.

At the outset, we note that in reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals nor substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *Systems Implementers, Inc.; Transcend Technological Systems, LLC, supra* at 10; *Sterling Med. Assocs., Inc.*, B-418674, B-418674.2, July 23, 2020, 2020 CPD ¶ 255 at 4. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. *Id.*; *Arctic Slope Mission Servs. LLC*, B-417244, Apr. 8, 2019, 2019 CPD ¶ 140 at 8. A protester's disagreement with the agency's evaluation judgments, without more, does not render those judgments unreasonable. *Id.*; *Serco Inc.*, B-407797.3, B-407797.4, Nov. 8, 2013, 2013 CPD ¶ 264 at 8.

Additionally, it is a fundamental principle of negotiated procurements that discussions, when conducted, must be meaningful; that is, the discussions must be sufficiently detailed and identify the deficiencies and significant weaknesses found in an offeror's proposal that reasonably could be addressed so as to enhance materially the offeror's potential for receiving award. FAR 15.306(d)(3); *General Dynamics Info. Tech., Inc.*, B-417616.2 *et al.*, Mar. 31, 2020, 2020 CPD ¶ 132 at 11. Further, an agency may not mislead an offeror--through the framing of a discussion question or a response to a question--into responding in a manner that does not address the agency's concerns, or misinform the offeror concerning a problem with its proposal or about the government's requirements. *Id.*; *Refinery Assocs. Of Texas, Inc.*, B-410911.2, Mar. 18, 2015, 2015 CPD ¶ 116 at 6. To satisfy the requirement for meaningful discussions, however, an agency need not "spoon-feed" an offeror as to each and every item that could be revised to improve an offeror's proposal, but need only lead an offeror into the areas of its proposal requiring amplification or revision. *Wolverine Tube Inc. d/b/a Wolverine Indus.*, B-418339.4, B-418339.5, July 26, 2022, 2022 CPD ¶ 219 at 9.

S3's Evaluation and Discussions

With respect to S3's proposal, the evaluators assessed three negative findings--two under the phase I program management approach factor and one under the phase II project management approach factor. S3-AR, Tab 8a, Phase I TET Final Report at 42-43; Tab 8b Phase II TET Final Report at 85. S3 challenges the assessment of all three negative findings. See *generally* S3-Protest at 28-36, 39-42. As a representative example of S3's challenges, we address the protester's contention that the agency unreasonably assessed a negative finding and engaged in misleading discussions under one of the subfactors of phase I's program management approach factor. See *generally* S3-Protest at 28-32, S3-Comments at 11-15.

As relevant here, the solicitation included five paragraphs detailing how proposals would be evaluated under the phase I program management factor. RFP § M at 132-133. While not identified as such in the solicitation, the evaluation record demonstrates that the agency treated the five paragraphs as the following five equally-important subfactors: (a) program management conceptual plan, organizational diagram, team roles and responsibilities, and team functions and processes; (b) program management approach for managing/staffing project teams, program capability and capacity, and breadth and depth to perform; (c) program management approach for design/engineering; (d) program management approach for construction; and (e) program management approach to providing, implementing, and maintaining information technology (IT) security. S3-AR, Tab 8a, Phase I TET Final Report at 42-43.

Specific to subfactor (a), the solicitation provided the agency would "evaluate the offeror's ability to oversee and manage the work and provide a program management conceptual plan that identifies the [offeror's] proposed team structure for fulfillment of the requirements set forth in the SOW [statement of work] to include coordination with principal Government representatives." RFP § M at 132. The agency also would evaluate an offeror's "organizational diagram of the program management team and the roles and responsibilities of the program management team members," as well as "the functions and processes that will be performed by the program management team." *Id.*

In S3's initial proposal, the evaluators assessed three positives and one negative under phase I's program management approach factor subfactor (a). S3-AR, Tab 8c, Phase I TET Initial Report at 43. The assessed negative related to S3's organizational diagram and program management team roles and responsibilities. *Id.* Specifically, the evaluators found that S3's structure of having [DELETED] [was] not an efficient or effective distribution of work and may organizationally result in workflow bottlenecks," thus decreasing confidence in S3's ability to perform without agency oversight. *Id.* During discussions, the agency advised S3 of this negative finding, and asked S3 to "fully explain/justify or revise accordingly" the proposed program management approach structure. S3-AR, Tab 13a, S3 Phase I Initial Discussions Letter at 2.

In response to the agency's discussions question, S3 made one change to its organizational diagram, but this change did not affect the structure resulting in [DELETED] in its final revised proposal submission. S3-AR, Tab 14b, S3 Phase I Redlined Final Proposal at 27. Additionally, S3 revised the narrative discussion of its organizational diagram to provide, in part: "Our PMT [project management team] structure, shown in Figure 2-2, is based on more than [DELETED] years of [DELETED] without bottlenecks. It is compliant with [the RFP] requirements for a single point of contact and the [DELETED]." *Id.* at 25.

Further, S3 explained in its cover letter that it designed its organizational structure to meet the RFP's requirement for offerors to "designate a single point of contact for all [task orders] to address all project deployment task phases and program management integration," as well as the requirement for offerors to "designate a Program Manager who will be the Contractor's authorized supervisor for technical and administrative performance of all work hereunder." S3-AR, Tab 14b, S3 Phase I Redlined Final Proposal at 1. Finally, S3 clarified that its [DELETED] would be "[DELETED]," which S3 asserted "facilitates [DELETED] and eliminates bottlenecks while our [DELETED]." *Id.*

Notwithstanding S3's representations in its revised proposal, the evaluators continued to be concerned with S3's proposed structure of having [DELETED], which they still viewed as "not an efficient or effective distribution of work" that could "organizationally result in workflow bottlenecks." S3-AR, Tab 8a, Phase I TET Final Report at 42-43. Additionally, the evaluators noted that while S3 stated its proposed approach would "provide effective [DELETED], the problematic issue stem[med] from its ineffective organizational approach." *Id.* Of particular concern to the evaluators was "the [DELETED]." ⁷ *Id.*

⁷ In its comments responding to the agency's report, S3 for the first time takes issue with the evaluators' specific concern related to the deputy program manager. S3-Comments at 13. Our Bid Protest Regulations contain strict rules for the timely submission of protests. Our decisions explain that 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.

Here, at the time of its initial protest, S3 knew that the agency assessed the challenged negative in part related to concerns about the deputy program manager's roles and responsibilities, yet S3 waited until submission of its comments to challenge this aspect of the negative assessment. S3-Protest at 29-30 (quoting the evaluation language related to the deputy program manager). Accordingly, we will not consider this later provided basis challenging the negative evaluation. See e.g., *MP Solutions, LLC*, B-420953, B-420953.2, Nov. 21, 2022, 2022 CPD ¶ 289 at 19-20 (declining to consider piecemeal presentation of allegations of two violations of the Procurement Integrity Act

S3 characterizes the evaluators' continued assessment of this negative as "unfounded," "unreasonable," "highly speculative," and lacking "any factual support." S3-Protest at 30. Specifically, S3 maintains that the evaluators "ignored the detailed justification S3 provided for its approach in its response to the Agency's discussion questions." *Id.* Further, S3 contends that because "organizational structures are influenced by many factors . . . [t]he Agency's broad assumption that S3's proposed structure would be inefficient and cause bottlenecks lacks any substantiation and fails to take into consideration why this structure is best-suited for managing a large, multi-disciplinary program like the [solicited work]." *Id.* In its protest, S3 goes on to expound why a matrixed organization such as itself "is well-suited to efficiently manage the allocation of internal resources," and to list several benefits of this type of structure. *Id.* at 30-31.

The agency responds that the evaluators "did not ignore the justification S3 provided for its approach," rather they considered the explanation and revised organizational diagram but concluded "the explanation and/or revision provided did not negate the concern with S3's organizational approach." S3-COS at 23. Specifically, the agency notes that the evaluators' final assessment of S3's revised proposal identifies some of the language from S3's FPR justification in continuing to find the protester's proposed organizational structure problematic. S3-MOL at 28-29, *citing* S3-AR, Tab 8a, Phase I TET Final Report at 42. Based on the record here, we find that S3 has presented nothing more than its disagreement with the evaluators' assessment of the discussed negative finding in the protester's revised proposal, which, without more, is insufficient to render the judgment unreasonable. *See e.g., MP Solutions, LLC, supra* at 16 (denying challenge to assessment of a deficiency in which protester contended the agency ignored information in firm's proposal, but the record showed the evaluators cited some of the supposedly ignored information in assessing the deficiency).

In addition to taking issue with the assessment of the negative finding, S3 claims the agency conducted misleading discussions with respect to this finding. S3-Protest at 31. Specifically, S3 contends that because the agency's discussions letter gave S3 "the option of either justifying its current approach or revising it, S3 reasonably believed that the Agency would accept its organizational structure so long as S3 appropriately justified the Agency's concern." S3-Protest at 28. Based on this belief, "S3 did not meaningfully alter its organizational structure but rather made a concerted effort to justify this concern in its response and final proposal revision." *Id.* The protester claims that the agency's offering of the option to explain or justify the organizational structure was misleading because this is what S3 did, yet the agency continued to assess the negative finding "notwithstanding S3's justification[,] demonstrate[ing] that the Agency would have rejected the unchanged organizational structure regardless of how well S3 justified it." *Id.* at 32. Thus, S3 maintains, "[t]he Agency clearly wanted S3 to propose an entirely different structure but led S3 to believe otherwise." *Id.* The agency responds that its discussion question "expressly stated the Agency's concern that [S3's]

(PIA), when the pertinent facts of each PIA violation were known to the protester at the time it filed a timely supplemental protest yet it did not raise one of the allegations until it submitted its comments on the agency report responding to the supplemental protest).

reporting structure was inefficient and ineffective, and directed [S3] to the specific area of concern” with a request for “amplification or revision.” S3-MOL at 30.

Based on the record here, we find no merit to S3’s contention that the discussions were misleading as the agency accurately conveyed to the protester the negative finding assessed by the evaluators, and left it to S3 regarding how to respond--explain/justify its organizational structure or revise it. That S3 chose to explain, rather than revise its organizational structure, was a business judgment made by the protester. Moreover, the fact that the evaluators considered S3’s explanation inadequate to resolve the negative finding does not demonstrate--as S3 claims--that there was no explanation that S3 could have provided that would have assuaged the evaluators’ concerns. Rather, it demonstrates only that S3’s particular explanation was assessed as inadequate. An agency’s discussions are not misleading or coercive merely because an offeror makes an independent business judgment that it later regrets. *Millennium Eng’g and Integration Co.*, B-417359.4, B-417359.5, Dec. 3, 2019, 2019 CPD ¶ 414 at 7 n.9. Accordingly, we deny S3’s evaluation and discussions challenges.

Apogee’s Evaluation

With respect to Apogee’s proposal, the evaluators assessed two negative findings under the phase I program management approach factor. AG-AR, Tab 8a, Phase I TET Final Report at 20-21. Apogee challenges the assessment of one of the two negative findings, primarily contending that the agency ignored information in the firm’s revised proposal responding to the agency’s discussions question.⁸ See *generally* AG-Protest at 10-13. As noted above, the evaluation of proposals under the program management approach factor included five subfactors. Apogee’s challenge relates to subfactor (a), under which the agency evaluated an offeror’s program management conceptual plan, organizational diagram, team roles and responsibilities, and team functions and processes. RFP § M at 132; AG-AR, Tab 8a, Phase I TET Final Proposal at 20.

In Apogee’s initial proposal, the evaluators assessed three positives and one negative under phase I’s program management approach subfactor (a). AG-AR, Tab 8c, Phase I TET Initial Proposal at 20. The assessed negative related to Apogee’s organizational diagram and program management team roles and responsibilities. *Id.* Similar to their evaluation of S3’s proposal, the evaluators found that Apogee’s structure of having [DELETED] [was] not an efficient or effective distribution of work and may organizationally result in workflow bottlenecks,” thus decreasing confidence in Apogee’s ability to perform without agency oversight. *Id.* During discussions, the agency advised

⁸ Apogee also contends that the agency applied an unstated evaluation criterion and engaged in misleading discussions with respect to the challenged negative finding. AG-Protest at 12; AG-Comments at 6-8. As we find that the agency’s assessment of the negative finding was unreasonable due to the evaluators’ failure to consider information in Apogee’s revised proposal, we need not discuss these ancillary arguments.

Apogee of this negative finding, and asked the firm to “[p]lease fully explain/justify or revise accordingly.” AG-AR, Tab 28a, Apogee Phase I Initial Discussions Letter at 2.

In response to the agency’s discussions question, Apogee added some clarifying text to the narrative explanation of its organizational structure and updated its organizational diagram. AG-AR Tab 29b, Apogee Phase I Redline Final Proposal at 2. Specifically, Apogee clarified it had “restructured scope elements to [DELETED],” resulting in a more [DELETED]. *Id.* at 28. Apogee’s proposal explained that this revised structure “provides an effective [DELETED] to prevent workflow bottlenecks.” *Id.* at 28-29.

In reviewing Apogee’s revised proposal, the evaluators continued to be concerned with the firm’s proposed structure of having [DELETED], and noted that Apogee’s “proposed organizational structure did not change and did not address the fundamental issue.” AG-AR, Tab 8a, Phase I TET Final Report at 20. Apogee argues that the evaluators’ continued assessment of this negative finding “ignored readily apparent information in Apogee’s proposal” showing that the firm’s organizational structure had been revised, resulting in [DELETED]. AG-Protest at 11.

In responding to the protest, the agency maintains that it did review Apogee’s proposal revisions in response to discussions and reasonably concluded that the evaluators’ original concern remained unaddressed. AG-COS at 21. The agency, however, admits that “the TET erred by forgetting to remove [DELETED] that were eliminated in Apogee’s [revised proposal]” in the final evaluation report. *Id.* As noted above, our Office will consider post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details, when those explanations are credible and consistent with the contemporaneous record. *Teya Enters., LLC, supra* at 5 n.6. In this instance, however, the agency’s post-protest contentions are not supported by the contemporaneous record. Rather, in assessing Apogee’s revised proposal the evaluators unequivocally, and incorrectly, stated that Apogee’s “proposed organizational structure did not change,” making it clear the evaluators ignored the revisions Apogee made to its organizational structure. AG-AR, Tab 8a, Phase I TET Final Report at 20.

Nevertheless, we find that the agency’s error does not provide a basis to sustain the protest. Competitive prejudice is an essential element of a viable protest; when the protester fails to demonstrate that, but for the agency’s actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest, even if deficiencies in the agency’s evaluation of proposals are found. *Up-Side Mgmt. Co.*, B-417440, B-417440.2, July 8, 2019, 2019 CPD ¶ 249 at 7.

As will be detailed further below, the agency considered K2’s proposal superior to Apogee’s proposal under three factors, one of which was the phase I program management approach factor. AG-AR, Tab 5b, Source Selection Decision at 12. The evaluators assessed two negative findings in Apogee’s proposal under the phase I program management approach factor. The first was the above-discussed challenged

finding related to Apogee's organizational structure. The second finding related to Apogee's IT security conceptual plan under subfactor (e) of the phase I program management approach factor. AG-AR, Tab 8a, Phase I TET Final Report at 20-21. Specifically, the evaluators assessed a negative finding because they were unable to consider Apogee's IT security conceptual plan. *Id.* at 21. In this regard, the solicitation allowed a maximum of 10 pages for offerors to respond to this evaluation factor, but Apogee's proposal did not address its IT security conceptual plan until page 11. RFP § L at 116; AG-AR, Tab 29a, Apogee Phase I Clean Final Proposal at 23-33 *generally* and at 33 *specifically*. As a result, the evaluators did not consider any information addressing the evaluation factor beyond the tenth page, which resulted in the negative finding. Apogee does not challenge the assessment of this negative finding. See *generally* AG-Protest.

Here, the SSA considered both of the negative findings when concluding that K2's proposal was superior to Apogee's incomplete proposal under the phase I program management approach factor. AG-AR, Tab 5b, Source Selection Decision at 8. Thus, even if the above-discussed evaluation error was corrected, Apogee's proposal would still be assessed a negative finding for lacking an IT security conceptual plan, as compared to K2's proposal which was assessed no negative findings and included a security plan. Moreover, correcting the agency's evaluation error would have no effect on the SSA's conclusion that K2's proposal was superior to Apogee's proposal under two additional factors on which the error had no bearing. In sum, while the evaluators erred in not considering Apogee's revisions to its organizational structure, we fail to see how correcting this error would have changed the SSA's conclusion that K2's proposal was superior to Apogee's proposal under three factors, superiority which the SSA found justified K2's price premium. Accordingly, Apogee cannot demonstrate that but for the agency's actions it would have had a substantial chance of receiving award, and we deny its evaluation challenge. See *e.g.*, *Engility Corp.*, B-413120.3 *et al.*, Feb. 14, 2017, 2017 CPD ¶ 70 at 17-18 (denying protest where protester would not have been prejudiced by alleged evaluation error).

Best-Value Tradeoff

Finally, both protesters contend that the agency's best-value tradeoff was necessarily flawed because the underlying evaluation upon which the tradeoff decision relied was flawed. S3-Protest at 42; AG-Protest at 18. The agency responds that its source selection decision was based on a reasonable underlying evaluation. As discussed above, we find no reason to object to the agency's evaluation of proposals. Thus, there is no basis to question the SSA's reliance upon the evaluation in making the source selection decision.

In addition, S3 maintains that the agency "improperly relied on the adjectival ratings alone for some factors without looking beyond those ratings and considering the underlying strengths and circumstances," which, S3 asserts, would have shown its own proposal to be sufficiently superior to that of K2 to justify the protester's approximately one percent premium. S3-Comments at 23. For its part, Apogee further challenges the

best-value tradeoff by arguing that even if the underlying evaluation is reasonable, K2's minimal technical advantage is not worth its approximate 13 percent price premium. AG-Protest at 18. Specifically, Apogee contends that because both its own proposal and K2's proposal received the highest possible rating under each factor, the SSA's conclusion that K2 offered benefits sufficient to justify its associated price premium is "unreasonable on its face," and demonstrates that the agency failed to consider price as part of its tradeoff decision. *Id.* The agency responds that "the SSA conducted a thorough and well-reasoned comparative assessment and resulting award decision, and the Protester's mere disagreement with the Agency's findings and determinations does not render those conclusions unreasonable." S3-MOL at 53; AG-MOL at 34.

In a competitive negotiated procurement, a source selection decision must be based upon a comparative assessment of proposals against all of the solicitations' evaluation criteria. FAR 15.308; *Systems Implementers, Inc.; Transcend Technological Systems, LLC, supra* at 26; *ICON Govt. and Public Health Solutions, Inc.*, B-419751, July 2, 2021, 2021 CPD ¶ 238 at 10. Our review of an agency's price/technical tradeoff decision is limited to a determination of whether the tradeoff was reasonable and consistent with the solicitation's evaluation criteria. *Id.*; *Hyperbaric Techs., Inc.*, B-293047.4, Mar. 29, 2004, 2004 CPD ¶ 89 at 10.

Here, the record does not support the protesters' contentions that the agency failed to look behind the adjectival ratings or to justify payment of K2's associated price premium. Rather, the record shows the agency performed a qualitative comparison of proposals. With respect to K2 and S3, the SSA looked behind their equal adjectival ratings to compare the benefits of the two proposals, concluding that: K2's proposal was superior to S3's proposal under four factors; S3's proposal was not superior to K2's proposal under any factors; and that K2 offered a superior technical proposal at a lower price than S3. S3-AR, Tab 5b, Source Selection Decision at 24. Accordingly, we deny S3's challenge to the agency's source selection decision. See *e.g.*, *ICON Govt. and Public Health Solutions, Inc., supra* at 12 (finding unobjectionable tradeoff decision that looked beyond adjectival ratings and was based on a comparison of the proposals' underlying features).

With respect to Apogee, the SSA conducted a qualitative comparison of proposals and found that K2's proposal was superior to that of Apogee under the phase I program management approach, phase II sample task technical solution, and phase II project management approach factors. AG-AR, Tab 5b, Source Selection Decision at 12. The SSA noted that Apogee's price was lower than K2's, but taking into consideration that price was significantly less important than the non-price factors, the SSA concluded that "[t]he potential price savings offered by Apogee are outweighed by the additional benefits provided by K2." *Id.* at 12-13; see also RFP § M at 132 (providing that, when combined, the non-price factors were significantly more important than price).

The SSA noted, for example, that K2's proposal was considered beneficial over that of Apogee given: (1) "the lack of consideration for Apogee's IT security conceptual plan, which K2 provided in detail"; (2) K2's proposal to "us[e] their design, bid, build approach

with the same K2 RPM installation construction teams for every project”; (3) K2’s proposed use of a particular “[DELETED] which provides greater reporting accuracy, and hence reduce[s] schedule and cost risk”; and (4) K2’s plan to use “[DELETED].” AG-AR, Tab 5b, Source Selection Decision at 13. The SSA concluded that these, combined with other benefits of K2’s proposal, warranted paying its associated premium of \$1,931,632 (approximately 13 percent). *Id.* Based on the record here, we find no basis to object to the SSA’s tradeoff decision. See e.g., *Cognosante MVH, LLC; Pro Sphere-Tek, Inc.*, B-421150 *et al.*, Jan. 10, 2023, 2023 CPD ¶ 18 at 23 (denying protests challenging best-value tradeoff where “SSA specifically noted the multiple technical benefits associated with [awardee’s] proposal that warranted” price premium).

The protests are denied.

Edda Emmanuelli Perez
General Counsel