



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: CORE O’Ahu, LLC

File: B-421714; B-421714.2

Date: August 31, 2023

Jonathan D. Shaffer, Esq., and Jacob Bolinger, Esq., Haynes and Boone, LLP, for the protester.

Alex D. Tomaszczuk, Esq., Dinesh C. Dharmadasa, Esq., and Whitney N. Alston, Esq., Pillsbury Winthrop Shaw Pittman, for Dismas Charities, Inc., the intervenor.

William D. Robinson, Esq., and Monica Barron, Esq., Department of Justice, for the agency.

Michelle Litteken, Esq., Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging agency’s evaluation of past performance is denied where the evaluation was reasonable and consistent with the terms of the solicitation.
 2. Protest that agency unreasonably failed to assign multiple strengths to protester’s proposal under the technical/management factor is denied where protester fails to demonstrate that the agency’s evaluation was unreasonable or inconsistent with the terms of the solicitation.
 3. Protest of agency’s best-value tradeoff decision is denied where the agency documented its basis for selecting a higher-priced, higher-rated proposal and where the underlying evaluation was reasonable.
-

DECISION

CORE O’Ahu, LLC, of Brooklyn, New York, protests the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to Dismas Charities, Inc., of Louisville, Kentucky, under request for proposals (RFP) No. 15BRRC20R00000270, issued by the Department of Justice, Bureau of Prisons (BOP), for residential reentry center (RRC) services and home confinement services for federal offenders on Oahu, Hawaii. The protester challenges the agency’s evaluation of the offerors’ proposals under the past performance factor, the evaluation of the protester’s proposal under the technical/management factor, and the best-value tradeoff decision.

We deny the protest.

BACKGROUND

The BOP provides certain federal offenders with the opportunity to serve the final months of their sentences in RRCs or day reporting centers (DRCs). Contracting Officer's Statement (COS) at 1. The centers assist federal offenders during their transition from prison to the community by offering employment, housing assistance, and other opportunities. *Id.* The BOP procures RRC and DRC services through contractual agreements with state and local governments, as well as private contractors. *Id.*; see also Memorandum of Law (MOL) at 2.

The BOP issued the solicitation on November 19, 2019, seeking a contractor to provide RRC and home confinement services or, in the alternative, DRC services, for offenders held on Oahu, Hawaii.¹ COS at 1. The solicitation contemplated the award of an IDIQ contract with a 1-year base period and nine 1-year option periods. MOL at 2.

The solicitation provided for award to be made on the basis of a best-value tradeoff considering the following factors, listed in descending order of importance: past performance, technical/management, and price. RFP at 67.² The solicitation provided that the non-price factors, when combined, were significantly more important than price, and it stated that the BOP would use the following adjectival ratings when evaluating proposals under the non-price factors: exceptional, very good, satisfactory, marginal, and unsatisfactory.³ *Id.* at 67-68.

As relevant here, for the past performance proposal volume, the solicitation stated that offerors should not submit BOP contracts for RRC services because the agency had access to records for those contracts and reserved the right to use those records in the evaluation. RFP at 254. The solicitation provided that the agency would consider the following subfactors when evaluating prior BOP contracts for RRC services in the past

¹ The solicitation stated that if the agency did not receive an acceptable proposal for RRC and human confinement services, it would consider proposals for DRC services. Agency Report (AR), Tab 25, RFP at 10; see also MOL at 2.

² The agency submitted two documents identified as tab 24 to the agency report: the unsuccessful offeror letter sent to CORE and the complete version of the solicitation. In this decision, we refer to the solicitation as tab 25 to the agency report. Citations to the solicitation are to the Adobe PDF page numbers.

³ Of relevance here, a satisfactory rating was defined as "proposal meets the requirements of the solicitation. Some minor problems exist, but can be resolved through discussions." RFP at 68. A very good rating was defined as "proposal meets requirements of the solicitation and exceeds requirements in some areas. Benefits to the Government/Bureau are identifiable. Problems may exist, but are minor, and may be resolved through discussions." *Id.* at 67.

performance evaluation: accountability; programs; community relations; personnel; and communications and responsiveness.⁴ *Id.* at 68.

The solicitation provided that the evaluation of the technical/management factor would consist of the following six subfactors: site location; accountability and security; programs; facility; personnel; and home confinement. RFP at 69. Of relevance here, the programs subfactor would focus on the quality, comprehensiveness, and innovativeness of the offeror’s plan to assist offenders’ successful reentry into the community, including the offeror’s approach for assisting offenders in meeting elements of their individualized program plans (IPPs).⁵ RFP at 70.

The BOP received timely initial proposals from CORE, Dismas, and a third offeror. MOL at 2. After evaluating the initial proposals, the contracting officer established a competitive range consisting of CORE and Dismas and conducted discussions with both offerors. COS at 3. The agency evaluated the final proposal revisions as follows:

	CORE	Dismas
Past Performance	Satisfactory	Very Good
Technical/Management	Satisfactory	Satisfactory
Price	\$9,801,210	\$14,908,899

See AR, Tab 20, Source Selection Decision (SSD) at 24-25.

In evaluating CORE’s past performance, the BOP reviewed reports from the Contractor Performance Assessment Reporting System (CPARS)⁶ for two CORE contracts,⁷ assessing a total of 3 strengths and 23 weaknesses.⁸ COS at 4; AR, Tab 18a, Past

⁴ As relevant here, the solicitation stated that the evaluation under the programs subfactor would consider the offeror’s record of performance and level of success in assisting offenders in successfully reentering the community. RFP at 68.

⁵ The solicitation describes the IPP as “the ‘roadmap’ for the resident’s case management while at the RRC.” RFP at 137. The IPP, which is prepared by the contractor for each resident, addresses the resident’s needs and risks, using information provided by the BOP. *Id.*

⁶ In addition to reviewing CPARS reports in the past performance evaluation, the agency considered information from interim monitoring reports. AR, Tab 18a, Past Performance Evaluation at 4-6; see *also* AR, Tab 20, SSD at 13.

⁷ The first contract was for home confinement electronic monitoring services in Washington, D.C.; the second contract was for RRC services in Brooklyn, New York. AR, Tab 18a, Past Performance Evaluation at 3.

⁸ In contrast, in evaluating two Dismas contracts, the agency assessed a total of 17 strengths and 6 weaknesses. COS at 4.

Performance Evaluation at 7. For example, the BOP assessed weaknesses because a CPARS report included several negative comments regarding CORE's performance as follows:

[H]ome confinement residents were not effectively accounted for on several occasions. Numerous inclusion alarms [indicating an offender was "out of bounds"] were all confirmed at the same time and several of these alarms were confirmed hours after the indication of the alarm. The contractors corrective action plan was ineffective and resulted in a repeat deficiency. . . . [B]reathalyzers were not being conducted each time the resident returned to the facility. The Alco-Sensors were not calibrated regularly and in accordance with the manufacturer's specifications. . . . [E]scape notifications were not conducted timely. One resident was on an approved pass. While on the pass, he was arrested on new charges. [CORE] staff did not become aware of the situation for over 12 hours. . . . [CORE] was not maintaining movement logs.

AR, Tab 18d, CORE DC CPARS Report at 2⁹; AR, Tab 18a, Past Performance Evaluation at 4-5.

Similarly, the BOP assessed a weakness because the CPARS report for CORE's RRC contract in Brooklyn, New York, also included negative comments regarding CORE's performance as follows:

[D]uring the October 2020 Full Monitoring[,] [CORE] failed to staff the required number of Guard 1 and Guard 2 positions. It recurred during [the] January 2021 Interim Monitoring [No.] 1, when it was noted as a repeat deficiency, and during [the] March 2021 Interim Monitoring [No.] 2, when it was noted as a repeat repeat deficiency.

AR, Tab 18e, CORE BRO CPARS Report at 7; AR, Tab 18a, Past Performance Evaluation at 6.

Thereafter, the contracting officer, who acted as the source selection authority, concluded that Dismas's proposal was stronger than CORE's proposal under each of the non-price factors. AR, Tab 20, SSD at 26-27. With respect to past performance (the most important factor), the contracting officer found that Dismas's proposal had multiple strengths that would "greatly increase" the likelihood of successful performance.¹⁰ *Id.* at 26. At the same time, the contracting officer noted that CORE's

⁹ The CPARS report stated that CORE implemented effective corrective action plans, and the same problems did not reoccur. AR, Tab 18d, CORE DC CPARS Report at 2.

¹⁰ For example, the contracting officer noted that Dismas "has conducted drug testing that exceeds the requirements of the [statement of work]" and "has also used numerous Community Resources to provide greater program opportunities to offenders to include

proposal received multiple weaknesses that raised “serious concern[s]” regarding CORE’s ability to successfully perform the contract. *Id.* Additionally, for the technical/management factor, the contracting officer found that although the proposals received the same adjectival rating, Dismas’s proposal received an additional strength for proposing to use a proprietary software program to schedule and track resident activity, which made it a superior proposal. *Id.* Overall, the contracting officer concluded that “the qualitative benefits in Dismas’s non-price proposal, most importantly the superior past performance, warrants paying . . . a 34 percent price [premium].” *Id.* Accordingly, the BOP selected Dismas for award.

After receiving notice of the award decision and a debriefing, CORE filed this protest with our Office.

DISCUSSION

The protester challenges the agency’s evaluation of proposals under the past performance factor, the BOP’s evaluation of CORE’s proposal under the technical/management factor, and the best-value tradeoff decision. As discussed below, we find no basis to sustain any of CORE’s protest allegations.¹¹

Past Performance Evaluation

The protester raises two arguments against the BOP’s evaluation of CORE’s past performance. First, the protester argues that the agency’s consideration of various past performance weaknesses was unreasonable. Additionally, CORE contends that the BOP treated the offerors disparately. We address each argument below.

Although CORE does not dispute the factual bases for any of the multiple past performance weaknesses that the BOP assessed, it asserts that the agency’s past performance evaluation was “unreasonable” because the agency “inflat[ed]” the weaknesses and failed to consider “mitigating information.” Comments and Supp. Protest at 2, 11. For example, the protester asserts that the agency failed to properly consider corrective actions that CORE had taken, and complains that it was unreasonable to assess a weakness for its failure to fully staff guard positions because there was a national labor shortage. Comments & Supp. Protest at 11.

The BOP responds that correcting a weakness does not change the fact that a weakness occurred, and extenuating circumstances do not mean that performance

rent and utility assistance, educational programs to include financial assistance, and a number of different computer and vocational classes.” AR, Tab 20, SSD at 26.

¹¹ In its various submissions, CORE presents arguments that are variations of, or additions to, those discussed below. Although we do not specifically address every argument raised by the protester, we have considered them and find none to be meritorious.

problems should not be identified as weaknesses. Supp. COS at 3. Overall, the agency maintains that it properly considered all relevant information in identifying multiple weaknesses in CORE's past performance. *Id.* at 2-3.

The evaluation of past performance, by its very nature, is subjective and an offeror's disagreement with an agency's judgments, without more, does not demonstrate that they were unreasonable. *See, e.g., Golden Key Group, LLC*, B-419001, Nov. 16, 2020, 2021 CPD ¶ 135 at 5. Here, based on our review of the entire record, we find no basis to object to the reasonableness of the agency's assessment of multiple weaknesses in CORE's past performance. As noted above, the protester does not dispute the factual bases for any of the assessed weaknesses. Instead, CORE disagrees with the significance that the BOP assigned the weaknesses, and the protester's disagreement does not establish that the agency's conclusions were unreasonable.

CORE also complains that the agency engaged in "disparate treatment" of the offerors' past performance and evaluated the offerors unequally. Comments & Supp. Protest at 9. For example, CORE asserts that the BOP assigned Dismas's proposal nine separate strengths for engagement with community organizations, while the protester's proposal received one strength. Supp. Comments at 2. The agency responds that the strengths were assigned based on information in the offerors' CPARS reports, and the information in the offerors' CPARS reports was not comparable. Supp. MOL at 4.

As noted above, GAO will examine an agency's evaluation of an offeror's past performance to ensure that it is reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. When a protester alleges disparate treatment in an agency's evaluation, it must show that the differences in the evaluation did not stem from differences between the offerors' proposals. *See, e.g., INDUS Tech., Inc.*, B-411702 *et al.*, Sept. 29, 2015, 2015 CPD ¶ 304 at 6.

Here, we have reviewed the record and find no merit to the protester's allegation of disparate treatment regarding the number of strengths assessed for community activities. The CPARS reports for Dismas's prior BOP contracts discussed Dismas's multiple activities with multiple community organizations. AR, Tab 18b, Dismas Corpus Christi CPARS Report at 7-9; AR, Tab 18c, Dismas DRC CPARS Report at 6-7. For example, one of the CPARS reports stated that Dismas had partnerships and participated in community activities with the [REDACTED], the local chamber of commerce, the [REDACTED], the local school district, the [REDACTED], and [REDACTED]. AR, Tab 18b, Dismas Corpus Christi CPARS Report at 7. The CPARS report also discussed initiatives that Dismas led or engaged with, such as the [REDACTED]'s homeless prevention program and a flu shot clinic. *Id.* at 8. In contrast, each of the CPARS reports for CORE's prior BOP contracts stated that CORE held community relations advisory board meetings with its board composed of representatives from the community and local organizations, but the reports did not reference any other community organizations or discuss any other community

engagement activities.¹² AR, Tab 18d, CORE DC CPARS Report at 3; AR, Tab 18e, CORE BRO CPARS Report at 5. In sum, the record demonstrates that Dismas participated in multiple initiatives in the community and engaged with multiple organizations, and there is no evidence that the protester had a comparable record of community engagement. Accordingly, on this record, we conclude that the differences in the assignment of strengths was due to differences in the offerors' past performance information and not the result of disparate treatment. *Noble Supply & Logistics, Inc.*, B-417494.3, Aug. 7, 2020, 2020 CPD ¶ 267 at 8 (denying protest where differences in the evaluation results reasonably reflected the differences in the offerors' past performance information).

As another example, CORE argues that the agency treated the offerors disparately in its consideration of weaknesses associated with IPPs.¹³ Comments & Supp. Protest at 10-11; Supp. Comments at 7. The protester's argument focuses on the following statement from the source selection decision:

I also considered other weaknesses to be significant that were identified in the Programs and Personnel factors. CORE received a weakness regarding progress reviews of the IPPs. The IPP is the roadmap for the offender's case management while at the DRC, failure to conduct proper progress reviews could have a negative impact on the offender's successful reentry back into the community.

AR, Tab 20, SSD at 26.¹⁴ The protester complains that it was unfair for the contracting officer to deem the weakness that CORE received for performance problems with IPPs

¹² We also note that Dismas received ratings of exceptional and very good under the community relations factor in the CPARS reports. AR, Tab 18b, Dismas Corpus Christi CPARS Report at 7; AR, Tab 18c, Dismas DRC CPARS Report at 6. In contrast, CORE received a rating of satisfactory for the community relations factor in each CPARS report. AR, Tab 18d, CORE DC CPARS Report at 3; AR, Tab 18e, CORE BRO CPARS Report at 5.

¹³ In the past performance evaluation, the BOP considered each offeror's track record of preparing and maintaining residents' IPPs as part of the programs subfactor. See AR, Tab 18a, Past Performance Evaluation at 5, 10.

¹⁴ In the source selection decision, the contracting officer discussed the past performance weakness that CORE was assessed for problems with IPPs, noting in that same section the number of past performance weaknesses that CORE's proposal received (23) and identifying the most significant of those weaknesses as those "that would have a major impact on the ability to meet the requirements of the solicitation." AR, Tab 20, SSD at 26. The contracting officer also noted that Dismas's proposal received 6 weakness and 17 strengths, with several of the strengths increasing the likelihood of successful performance. *Id.*

as significant while failing to recognize the fact that Dismas's proposal received three weaknesses for performance problems with IPPs.¹⁵ Supp. Comments at 7.

Based on our review of the record, we are unpersuaded by the protester's argument. The record shows that the contracting officer was aware of the particular past performance weaknesses that each proposal received for performance problems with IPPs. AR, Tab 20, SSD at 6 (discussing weaknesses assigned to Dismas's proposal) and 10-11 (discussing weakness assigned to CORE's proposal). Although both offerors received weaknesses for performance problems related to IPPs, the bases for the weaknesses were not the same. Namely, the BOP assessed a weakness to CORE's proposal after finding that the IPPs lacked substance and did not address how CORE would assist offenders in achieving their goals. AR, Tab 18a, Past Performance Evaluation at 5. The agency assessed weaknesses to Dismas's proposal because some IPPs were late or were missing discrete pieces of information, such as documentation of family member involvement. *Id.* at 10. The contracting officer found that CORE's prior performance problem with IPPs could have a negative impact on an offender's successful reentry back into the community but did not identify the same risk with Dismas's past performance. AR, Tab 20, SSD at 26. Accordingly, to the extent the BOP gave more significance to the weakness that CORE's proposal received, that is not evidence of disparate treatment. See *INDUS Tech., Inc., supra*. The protester's disagreement with the agency's conclusions about the relative importance of the past performance weaknesses that each proposal received does not provide a basis to find that the agency's judgment was unreasonable, and it does not provide a basis to sustain the protest. *Wolff & Mueller Gov't Servs. GmbH & Co. KG*, B-419431, B-419431.2, Feb. 23, 2021, 2021 CPD ¶ 105 at 14.

Finally, CORE alleges that the BOP's past performance evaluation was unfair because the agency disregarded the relative number of offenders covered by the offerors' prior contracts when it considered the problems identified in the CPARS reports, described above. Supp. Comments at 3. CORE performed contracts with larger numbers of offenders, and argues that failing to consider the size of the contract distorts the severity of the weaknesses in the CPARS reports. Comments & Supp. Protest at 10. The agency responds that the relative size of the offerors' contracts did not negate the requirements for comprehensive accountability programs, and a contract's higher population did not excuse the contractor's failure to comply with those requirements. Supp. MOL at 3-4.

We reject the protester's argument. The agency was not required to discount the number or severity of the negative comments in CORE's CPARS reports on the basis that those contracts involved more offenders than Dismas's contracts. The fact that the BOP held the offerors to the same standard is not evidence of disparate or otherwise

¹⁵ When the BOP reviewed Dismas's CPARS reports, it assessed three weaknesses for performance problems related to IPPs--one for late IPP reviews, one for missing or vague documentation regarding family involvement, and one for incomplete IPPs. AR, Tab 18a, Past Performance Evaluation at 10.

unreasonable treatment. See *Cue Health, Inc.*, B-420528, B-420528.2, May 23, 2022, 2022 CPD ¶ 130 at 7 (stating that evaluating proposals on an equal basis means the contracting agency must treat all offerors equally, and even-handedly evaluate proposals against common requirements and evaluation criteria).

Technical/Management Evaluation

Next, CORE contends that the BOP's evaluation of CORE's technical/management proposal was unreasonable because the agency failed to identify numerous strengths and significant strengths in its proposal. Protest at 7-8; Comments & Supp. Protest at 6. The BOP responds that it evaluated CORE's proposal in accordance with the solicitation. MOL at 7.

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. 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. *Computer World Servs. Corp.*, B-410513, B-410513.2, Dec. 31, 2014, 2015 CPD ¶ 21 at 6. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. *Vertex Aerospace, LLC*, B-417065, B-417065.2, Feb. 5, 2019, 2019 CPD ¶ 75 at 8.

An agency's judgment that the features identified in the proposal did not significantly exceed the requirements of the solicitation--and thus did not warrant the assessment of unique strengths--is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, 2019 CPD ¶ 33 at 8 n.4. In that regard, an agency's contemporaneous evaluation record is not required to "prove a negative," or document determinations of adequacy (*i.e.*, why a proposal did not receive a strength or weakness). See, *e.g.*, *Cognosante MVH, LLC*, B-418986 *et al.*, Nov. 13, 2020, 2021 CPD ¶ 3 at 8; *CSRA LLC*, B-417635 *et al.*, Sept. 11, 2019, 2019 CPD ¶ 341 at 10 n.15. When a protester raises a challenge regarding why a proposal was not assigned a strength or weakness, we review whether the agency's explanation or documentation--contemporaneous or otherwise--demonstrates that the evaluation was reasonable and consistent with the stated evaluation criteria. See *Cognosante, supra* at 7-8 (finding the statements from the evaluators and contracting officer responding to the protester's arguments demonstrated the reasonableness of the agency's decision not to assign the challenged strengths).

For example, CORE argues--without any discussion of the solicitation requirements or how its proposal exceeded those requirements--that its proposal should have received a strength for its proposed approach to the IPP requirement. Comments & Supp. Protest at 7. As noted above, the agency evaluated an offeror's approach for assisting offenders in meeting the elements of their IPPs as part of the technical/management factor evaluation. RFP at 69. The protester states that it proposed to have clients

complete an IPP [REDACTED]. Comments & Supp. Protest at 7. The agency responds that CORE's approach to IPPs met, but did not exceed, the requirement to assist residents in meeting the elements in their IPPs and did not warrant a strength. MOL at 7; see *also* COS at 6.

As an additional example, CORE asserts that its proposal should have received a strength for engaging local community stakeholders. Protest at 9. CORE's proposal included a plan to engage the community with a [REDACTED]. *Id.* Again, the BOP found that CORE's proposal met, but did not exceed, the requirement to have a written policy and procedures to provide ongoing, positive communication and partnership between the facility, employers of DRC residents, social service agencies, legal services organizations, elected officials, law enforcement, and area residents. Supp. COS at 3.

Here, we see no basis to object to the agency's evaluation of CORE's proposal under the technical/management factor. The protester does nothing more than restate various aspects of its proposal and claim that the BOP should have identified strengths for those elements. The protester fails to demonstrate that it was unreasonable for the agency to conclude that CORE's proposal met, but did not exceed, the solicitation's stated requirements. Accordingly, we reject the protester's assertions that it was unreasonable for the agency not to assess additional strengths in CORE's proposal. See *Tech Marine Business, Inc.*, B-420872 *et al.*, Oct. 14, 2022, 2022 CPD ¶ 260 at 9.

Best-Value Tradeoff

Finally, the protester alleges that the best-value tradeoff was unreasonable because the contracting officer relied on flawed evaluations, and the BOP failed to justify paying a price premium for the award to Dismas. Protest at 11-12; Comments & Supp. Protest at 12. The agency responds that its award decision was reasonable and consistent with the terms of the solicitation. MOL at 7. The agency asserts that it considered the evaluation factors and reasonably determined that the superiority of Dismas's proposal under the non-price factors, which the solicitation weighted more heavily than price, justified the price premium of the awardee's proposal. *Id.* at 9.

When a solicitation provides for the award of a contract on a best-value tradeoff basis, it is the function of the selection official to perform any necessary price-technical tradeoff, that is, to determine whether one proposal's technical superiority is worth its higher price. *Engility Corp.*, B-413120.3 *et al.*, Feb. 14, 2017, 2017 CPD ¶ 70 at 24. A protester's challenge to the degree of benefit that the agency would derive from a particular feature of the protester's proposal, as compared to the benefit that would be derived from the awardee's proposal, is a disagreement with the agency's subjective judgment and is not sufficient to establish that an evaluation conclusion was unreasonable. *Bluehawk, LLC*, B-421201, B-421201.2, Jan. 18, 2023, 2023 CPD ¶ 43 at 12.

Given our conclusion, above, that the agency's underlying evaluation of the offerors' proposals was reasonable, we deny the protester's derivative challenge to the best-value tradeoff.

We also find that the agency properly exercised its discretion in conducting the tradeoff analysis and concluding that the awardee's superiority under the non-price evaluation factors was worth the proposal's price premium. The record shows that the agency identified specific advantages in Dismas's proposal, such as conducting additional drug tests, using numerous community resources, and proposing to use a proprietary software program to schedule and track resident activity.¹⁶ AR, Tab 20, SSD at 26. Dismas's proposal was also stronger under the most important evaluation factor, past performance. Moreover, the contracting officer found that the strengths in Dismas's proposal increased the likelihood of successful performance, while the weaknesses in CORE's proposal raised serious concerns about the protester's ability to perform. *Id.* The BOP recognized that CORE proposed a lower price, but the contracting officer found that the benefits of Dismas's proposal under the non-price factors--particularly under the past performance factor--warranted paying a 34 percent price premium. *Id.* Thus, contrary to the protester's allegation, the record demonstrates that the BOP reasonably selected Dismas's higher-rated and higher-priced proposal, and this allegation provides no basis to sustain the protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

¹⁶ The protester also argues that the BOP utilized an unstated evaluation criterion when it assigned a strength to Dismas's proposal for proposing to use a proprietary software program in order to schedule and track resident activity. Comments & Supp. Protest at 12. As a general matter, when evaluating proposals, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by, or related to, the stated evaluation criteria. *nou Systems, Inc.*, B-421225, Dec. 10, 2022, 2022 CPD ¶ 10 at 6. Here, the solicitation stated: "The offeror will be evaluated on the plans, procedures, and practices they will employ to ensure offenders are accurately accounted for, at all times, while (1) in the facility; (2) at work assignments; and (3) in all other activities in the community." RFP at 262. Because the requirement to schedule and track resident activity is encompassed within the stated criteria, the protest allegation is denied. See *UDC USA, Inc.*, B-419671, June 21, 2021, 2021 CPD ¶ 242 at 5 (agency did not apply unstated criteria when the requirements were logically encompassed by the evaluation criteria).