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Decision

Matter of: BC Site Services, LLC

File: B-420797.6

Date: February 1, 2024

Robert J. Symon, Esq., and Lisa A. Markman, Esq., Bradley Arant Boult Cummings LLP, for the protester.

Clark Bartee, Esq., Department of the Army, for the agency.

Samantha S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of protester's proposal and resulting elimination from competition is denied where record shows that evaluation was reasonable, and elimination was consistent with solicitation's two-phase selection process.

DECISION

BC Site Services, LLC (BCSS), a small disadvantaged business of Carrollton, Georgia, protests its exclusion from consideration for award under request for proposals (RFP) No. W912HY21R0012, issued by the Department of the Army, Corps of Engineers (Corps) for horizontal construction in the Corps's Galveston District and Southwestern Division. The protester challenges the agency's evaluation of the firm's proposal.

We deny the protest.

BACKGROUND

The Corps issued the RFP on an unrestricted basis, with a portion of the awards reserved for small businesses, on March 21, 2022, providing that offerors would "be evaluated under the Two-Phase Design Build Process."¹ Agency Report (AR), Exh. 6,

¹ Federal Acquisition Regulation (FAR) subpart 36.3 sets forth two-phase design-build selection procedures authorized for contracts for construction and architect-engineer services. FAR 36.300.

RFP at 5, 20.² The solicitation contemplated award of indefinite-delivery, indefinite-quantity (IDIQ), multiple-award task order contracts (MATOCs) for 8-year terms to the offerors whose proposals were determined to represent the overall best value to the government, using a tradeoff process. *Id.* at 20-21. The RFP stated that the Corps intended to award “a target of 15” MATOCs “with the target of five (5) awards to Small Businesses for the Small Business Reserve[.]” *Id.* at 20. Task orders would be competed among the IDIQ contract holders, with the total value up to \$7 billion for the entire pool of contracts. *Id.* at 20-21.

For phase one of the competition, offerors were required to submit proposals to address the following evaluation factors, listed in descending order of importance: (1) past performance; (2) construction execution approach; and (3) organization/management team. *Id.* at 21-22. These evaluation criteria were the same for both unrestricted and small business reserve offerors, but the solicitation identified some different standards under the criteria for the small business reserve. *See, e.g., id.* at 29 (establishing the required bonding capacity of \$350 million for the unrestricted offerors but reduced to \$50 million for the small business reserve). Relevant here, the RFP advised that only those offerors selected to participate in phase two would be invited to submit a phase two proposal. *Id.* at 21.

The agency reserved “the right to allow proposal revisions in accordance with FAR 15.306(d)(5) Exchanges with Offerors After Receipt of Proposals, if deemed necessary to determine the most highly qualified Offerors.” *Id.* at 30. Based on the evaluation of phase one proposals, the Corps would select the most highly qualified offerors and invite them to submit phase two proposals, with “a target” of 13 unrestricted and 7 small business offerors. *Id.* at 20.

The agency received 36 phase one proposals, including one submitted by BCSS--which competed under the small business reserve standards--by the April 21, deadline for receipt of proposals. AR, Exh. 23, Phase One Down Select Document at 8. The agency first contacted nine of the offerors, including BCSS, providing them with “Evaluation Notices” for the offerors to address. AR, Exh. 10, Initial Phase One Down Select Document at 73-76. After receiving the offerors’ responses to the evaluation notices, the source selection evaluation board (SSEB) finalized its phase one evaluation and briefed the source selection authority (SSA). *Id.* at 76-83. On May 24, the SSA identified 10 unrestricted offerors and 9 small business reserve offerors as the most highly rated and invited those 19 offerors to submit phase two proposals. *Id.* at 83-84.

On June 3, BCSS filed a protest with our Office challenging the agency’s evaluation and exclusion of BCSS from phase two of the competition. *BC Site Servs., LLC, B-420797, B-420797.3, July 8, 2022* (unpublished decision). We dismissed the protest when the agency advised that it would take corrective action by conducting “a new evaluation of

² Citations to the RFP are to the final amended version included at exhibit 6 to the agency report. Citations to the record refer to the documents’ internal Adobe PDF pagination.

the protester's proposal based on the issues raised in the protest and consistent with the requirements in the solicitation." *Id.*

The agency subsequently conducted a new evaluation of BCSS's proposal and made a new decision about which offerors to invite to phase two. *BC Site Servs., LLC*, B-420797.4, B-420797.5, Mar. 21, 2023, 2023 CPD ¶ 73 at 3. The SSA again did not include BCSS in the most highly rated offerors invited to phase two. *Id.* BCSS again protested its evaluation and exclusion from the competition, and this time, we sustained BCSS's protest, finding that the agency had conducted unequal discussions by only engaging in meaningful discussions with some, but not all, offerors. *Id.* at 12. We recommended that the agency engage in meaningful discussions with all phase one offerors, including providing an opportunity for proposal revisions. *Id.*

Following our decision, the agency issued new evaluation notices on May 2, 2023, providing the firms with an opportunity to submit responses and final proposal revisions by May 17. Contracting Officer's Statement at 1-2. The agency then evaluated final proposal revisions, assigning BCSS ratings of "satisfactory confidence" for the past performance factor and "acceptable" for both the construction execution approach factor and the organization/management team approach factor.³ AR, Exh. 22, SSEB Report at 5.

The SSA ultimately identified 21 offerors--10 from the unrestricted pool and 11 from the small business reserve pool--as the most highly rated and selected them to proceed to phase two. AR, Exh. 23, Phase One Down Select Document at 81. On October 19, BCSS was notified that it, again, had not been selected to proceed. After requesting and receiving a debriefing, BCSS filed this protest with our Office.

DISCUSSION

The protester challenges the agency's evaluation of the firm's proposal under each of the evaluation factors. Although we do not specifically address all of BCSS's arguments, we have fully considered all of them and find that none provides a basis on which to sustain the protest.⁴

³ The RFP provided that the past performance factor would be evaluated and assigned one of the following confidence assessment ratings: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence. RFP at 31. The available adjectival ratings for the two technical factors were: outstanding, good, acceptable, marginal, or unacceptable. *Id.* at 30.

⁴ Initially, the protester also argued that the agency's down select decision was inadequately documented. Protest at 64-65. In its report to our Office responding to the protest, the agency specifically responded to these arguments. See Memorandum of Law (MOL) at 16. The protester, however, failed to rebut or otherwise address the agency's responses. Consequently, we consider these arguments abandoned and we

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Past Performance

BCSS challenges the agency's evaluation of its past performance, arguing that the evaluation was unreasonable and inconsistent with the solicitation's requirements. Protest at 26-44. The agency responds that the evaluation of BCSS's past performance was reasonable and consistent with the stated evaluation criterion. MOL at 7-11.

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. *Onsite OHS, Inc.*, B-415987, B-415987.2, Apr. 27, 2018, 2018 CPD ¶ 164 at 4. Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations, and to ensure that the agency's rationale is adequately documented. *Jacobs Tech., Inc.*, B-413389, B-413389.2, Oct. 18, 2016, 2016 CPD ¶ 312 at 6. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was improper. *Erickson Helicopters, Inc.*, B-409903, B-409903.2, Sept. 5, 2014, 2014 CPD ¶ 288 at 6.

The RFP instructed offerors to submit up to six past performance references by completing experience information forms and, relevant here, submitting a client past performance questionnaire (PPQ). RFP at 23-24. The solicitation advised that the Corps would evaluate the recency, relevance, and quality of each offeror's past performance to determine the agency's level of expectation that the offeror would successfully perform the required effort.⁵ *Id.* at 26-27, 30-31.

BCSS provided six past performance references, including its San Diego tactical infrastructure contract for the Department of Homeland Security, Customs and Border Protection (CBP). AR, Exh. 20, Revised Proposal at 30-64. The SSEB found all BCSS references to be recent, but the agency assessed the CBP project (Reference 1) as "not relevant" and "no confidence," because the work was primarily for maintenance, rather than design-build or design-bid-build-horizontal construction, the work required under the solicitation. AR, Exh. 22, SSEB Report at 15. The SSEB found the remaining references to be "relevant" and "satisfactory confidence" (References 2, 5, and 6) or "very relevant" and "substantial confidence" (References 3 and 4). *Id.* at 16-18. Based on an overall assessment of the protester's references, the agency assigned BCSS a

will not consider them further. *Olgoonik Glob. Sec., LLC*, B-414762, B-414762.2, Sept. 8, 2017, 2017 CPD ¶ 282 at 3-4 n.2.

⁵ That is, the past performance confidence assessment rating is based on the evaluation of an "offeror's overall record of recency, relevancy, and quality of performance." RFP at 27. The solicitation identified the levels of relevancy as: very relevant, relevant, somewhat relevant, or not relevant. *Id.* at 30-31.

rating of “satisfactory confidence” (*i.e.*, the government has a reasonable expectation that the offeror will successfully perform the required effort). *Id.* at 18; RFP at 31.

The protester argues that it was improper for the agency to determine that the CBP project (Reference 1) was not relevant. According to BCSS, “[w]hile BCSS performed some maintenance as part of its overall scope of work, the project *is not* a maintenance contract, which the Agency would have realized had it actually evaluated the substance of BCSS’s proposal.” Comments at 4. The agency contests BCSS’s allegations, asserting that it reasonably concluded--based in part on the description of the work within the PPQ--that the CBP reference was “maintenance in nature and did not meet the solicitation definition of a relevant project[.]” MOL at 8.

The solicitation specified that past performance references were relevant if similar to the services required under this contract, which the RFP summarized as:

Design-Build and Design-Bid-Build horizontal construction to include new construction, repairs or alterations for marine structures; dredge material placement areas; flood control structures; levees; jetties; erosion protection; emergency repairs including Hurricane Flood Protection; Gates: hydraulic, sector, road, railroad; retaining walls; drainage improvements; bridge construction; pump stations; road construction; beach re-nourishment.

RFP at 23. The evaluators invoked this RFP description to conclude that BCSS’s CBP project was not similar in scope to the services required here because that project required BCSS to perform maintenance and repair services, rather than construction. AR, Exh. 22, SSEB Report at 15 (“[T]his project was maintenance performed as a ‘service’ and is therefore not considered relevant as it fails to meet the definition of construction.”). The evaluators acknowledged that the CBP contract was awarded under a North American Industry Classification System (NAICS) code for construction, but the SSEB specifically relied on the following description of the work contained within the PPQ submitted in BCSS’s revised proposal:

Contractor is currently performing maintenance, repair, and improvement services for CBP Tactical infrastructure Assets; Categories of Work include roads and bridges, fences and gates, vegetation control, debris removal, Border lighting and electrical, drainage and grate systems, and tunnel remediation. Tasks in performance include grading, vegetation control, erosion control, road stabilization, damaged road remediation, etc. for four categories of roads. Fencing and Gate work includes repair and restoration of primary, secondary, and tertiary fences as well as manual and automatic gates around the site by mitigating erosion, removing and reinstalling fence panels, and correcting existing foundation damage. Additionally, the scope of work on site includes clearing and grubbing, removing and replacing existing culverts and appurtenances, and drainage system restoration.

Id. at 15 (referring to “the PPQ paragraph project description”); AR, Exh. 20, Revised Proposal at 33.⁶ The agency therefore concluded that BCSS was “performing maintenance, repair, and improvement services for CBP Tactical Infrastructure Assets” rather than horizontal construction as will be required from the contractor here. AR, Exh. 22, SSEB Report at 15.

The protester contends that the agency should have relied on BCSS’s representation in its proposal that the work was “construction and maintenance items” and the construction-type NAICS code rather than the “brief description” of the contract in the PPQ. Comments at 5-7 (quoting AR, Exh. 20, Revised Proposal at 31). BCSS, however, neither disavows the PPQ’s account of the work, nor denies the accuracy of the description. *Id.* at 7-8. To the contrary, BCSS argues that the agency was obligated to conclude that the CBP reference was relevant because the PPQ referred to work such as “road stabilization and remediation” and the RFP included things like “**repairs and alterations for . . . erosion protection; . . . Gates . . . drainage improvements; . . . [and] road construction**” within the summary of the scope of the work. *Id.* at 8.

The record here shows that the agency documented its reasoning for concluding that--while the CBP project included some of the work within the scope of this solicitation--BCSS’s proposal did not demonstrate that the CBP project was similar in scope to the full Design-Build and Design-Bid-Build horizontal construction work provided for in this RFP.⁷ AR, Exh. 22, SSEB Report at 15. While the protester takes

⁶ Relevant here, the actual assessments in the PPQs are completed by the “client,” that is, the government agency for which the offeror had previously performed under a contract. See AR, Exh. 20, Revised Proposal at 33. The description of the contracted work, however, was to be completed by the offerors submitting the references. *Id.* Therefore, BCSS, itself, provided the description of work for the CBP reference on which the SSEB relied in evaluating the protester’s past performance.

⁷ The protester also asserts that the agency’s evaluation is “*per se* unreasonable” because the evaluation report quotes from BCSS’s description of the CBP project from the firm’s initial proposal instead of the revised proposal, which BCSS contends was modified to make “**very clear** that the project **was not** a maintenance contract.” Comments at 5-6. Our review confirms that the agency quoted the CBP description from BCSS’s initial proposal--rather than the revised proposal--in the final SSEB Report. AR, Exh. 22, SSEB Report at 15 (quoting language of BCSS’s experience information sheet from page 30 of Exhibit 8 of the AR, which is BCSS’s initial proposal). Although we agree the agency erred in quoting to the language provided in the initial proposal, BCSS has failed to demonstrate that it was competitively prejudiced by the error.

Competitive prejudice is an essential element of a viable protest; where 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
(continued...)

issue with the agency's conclusion, this disagreement with the agency's evaluation judgments, without more, does not demonstrate that those judgments were unreasonable or otherwise provide a basis on which to sustain the protest. *Computer Scis. Corp.*, B-409386.2, B-409386.3, Jan. 8, 2015, 2015 CPD ¶ 34 at 4.

BCSS also challenges the assessment of the three past performance references (References 2, 5, and 6) where the Corps determined the projects were only "relevant." The protester's principal contention is that each of those references should have been found to be more than "relevant" and, as a result, BCSS should have been assigned a higher confidence rating for past performance. Comments at 15-23. The agency defends its assessment of the references as based on "careful consideration of past performance information provided by BCSS for the projects" and within the discretion of the evaluators. MOL at 9-10.

The solicitation here provided that, in addition to determining relevance based on similarity to the services required here, the Corps's assessment would give "more consideration for greater relevancy on past performance projects that included," but were not limited to, ten listed features. RFP at 26. The features included, for example, "[f]ully completed projects rather than partially complete projects." *Id.*

The protester generally does not contest the substance of the agency's relevancy evaluation, nor does BCSS argue that the references should have been credited for

not sustain the protest, even if deficiencies in the procurement were found. *Tyonek Eng'g & Agile Mfg., LLC*, B-419775 *et al.*, Aug. 2, 2021, 2021 CPD ¶ 263 at 12 n.12; *HP Enter. Servs., LLC*, B-411205, B-411205.2, June 16, 2015, 2015 CPD ¶ 202 at 6.

Here, there is no dispute that the agency received and evaluated BCSS's revised proposal because, for example, BCSS replaced an entire past performance reference, and the SSEB Report reflects evaluation of the new reference (Reference 3, "Pasadena MVP Terminal Phase I"). See AR, Exh. 22, SSEB Report at 16. Given that, we fail to see how BCSS has established it was prejudiced by the agency having quoted language from BCSS's initial proposal, where the record reflects multiple reasons--including the PPQ description from BCSS's revised proposal--for the agency's conclusion that the CBP project was not relevant. *Id.* at 16-17.

Indeed, although BCSS's revised proposal includes an updated description of the CBP project, that revised description is a reiteration of the argument that BCSS had already made; *i.e.*, that BCSS's CBP work and the work required of the RFP here are similar. See, *e.g.*, Comments at 5 (referring to revised proposal to argue that BCSS's work on "roads & bridges" aligned with part of the solicitation's summary of the scope of work). Regardless of this updated description, the agency had already rejected the protester's contention that the efforts were similar. In short, BCSS has not established that the agency's analysis would have changed if it quoted BCSS's revised proposal rather than its initial proposal. See *Equinoxys, Inc.*, B-419237, B-419237.2, Jan. 6, 2021, 2021 CPD ¶ 16 at 6 (denying challenge to evaluation where, notwithstanding apparent errors, where protester fails to establish competitive prejudice).

including more of the “greater relevancy” features than they had been. Comments at 15-23. Rather, BCSS argues that none of those references should have been deemed “only” relevant because the agency necessarily found that the reference projects “exceeded the basic criteria for relevancy” when the agency determined the projects met three or four “of the ‘greater relevancy’ criteria.” See *id.* at 16.

As an initial matter, BCSS’s argument that the agency was obligated to evaluate each of its references as more relevant fails to acknowledge that “relevant” is the second highest relevancy determination. The RFP also allowed the agency the discretion to identify a reference as only “somewhat relevant” based on an assessment of the scope and magnitude of the effort and the complexities reflected in the “greater relevancy” criteria. See RFP at 30-31. What the solicitation did not do--as the protester suggests--was delineate a specific relevancy assessment based on the number of “greater relevancy” criteria met by the past performance reference. Here, at its core, the protester’s argument is fundamentally that BCSS should have received more credit based on a count of the “greater relevancy” criteria. Comments at 15-23. Our Office has, however, consistently rejected arguments that essentially seek a mathematical or mechanical consideration of the number of strengths or weaknesses assessed in an offer. *PricewaterhouseCoopers Pub. Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 7. The protester’s simple reliance here on a mechanical consideration of the “greater relevancy” criteria to argue that its past performance should have been evaluated as more relevant, does not provide a basis to sustain the protest.

Adjectival Ratings

Next, BCSS contends that the assignment of adjectival ratings to the firm’s proposal was inconsistent with the adjectival rating definitions set forth in the solicitation. The protester argues that its proposal merited assignment of (1) a rating of substantial confidence, rather than satisfactory confidence, under the past performance factor; (2) a rating of “outstanding” or “good,” rather than “acceptable,” under the construction execution approach factor; and (3) a rating of “outstanding” or “good,” rather than “acceptable,” under the organization/management team factor. Comments at 23-32. The protester maintains that it was especially unreasonable for BCSS’s past performance ratings not to improve given that the agency “**raised** BCSS’s confidence rating from the previous evaluation” for three of the past performance references and identified strengths for the first time in the reevaluation. *Id.* at 24, 31-32.

The overriding concern in our review of a reevaluation following corrective action is not whether the final evaluation is consistent with an earlier evaluation, but rather, whether it is reasonable and consistent with the solicitation (which, as discussed below, we find the evaluation here to be). *HeiTech-PAE, LLC*, B-420049.9, B-420049.10, June 8, 2022, 2022 CPD ¶ 162 at 11-12. In this regard, the mere fact that the agency evaluated some of the protester’s past performance references more positively during its reevaluation does not obligate the agency to assign the proposal a higher adjectival rating than assigned during its original evaluation. *Candor Sols. LLC*, B-417950.5,

B-417950.6, May 10, 2021, 2021 CPD ¶ 199 at 10 (denying argument that assignment of adjectival ratings was unreasonable because fewer weaknesses were assessed during reevaluation).

As we have explained, the essence of an agency's evaluation is reflected in the evaluation record itself, not the adjectival ratings, and the relevant question is whether the record shows that the agency fully considered the actual qualitative differences in offerors' proposals. *PricewaterhouseCoopers Pub. Sector, LLP, supra* at 7. Further, the ratings assigned to a proposal, be they numeric or adjectival, are merely guides for intelligent decision making. *Metis Solutions, LLC, et al.*, B-411173.2 *et al.*, July 20, 2015, 2015 CPD ¶ 221 at 13. The ratings assigned largely are immaterial, provided that the evaluators and source selection officials have considered the underlying bases for the ratings, including the specific advantages and disadvantages associated with the content of the proposals. *Advantage Tech., Inc.*, B-414974, B-414974.2, Oct. 27, 2017, 2017 CPD ¶ 340 at 4.

The record here reflects that the agency gave detailed consideration to the content of BCSS's proposal. For example, despite the protester's complaints regarding its adjectival rating, the record reflects that the SSA specifically considered that BCSS offered strengths in alternative delivery methods and preconstruction services experience that rendered BCSS proposal "amongst the most advantageous to the Government of the remaining" small business reserve offerors for the construction execution approach factor. AR, Exh. 23, Phase One Down Select Document at 94. Based on the agency's contemporaneous documented observations and assessment of the relative advantages and disadvantages associated with the specific content of the proposals, we find that the protester's disagreements with the assigned adjectival ratings are without merit, given that those ratings do not affect the reasonableness of the judgments made in the source selection decision. See *Centerra-Parsons Pac., LLC*, B-414686, B-414686.2, Aug. 16, 2017, 2020 CPD ¶ 249 at 8-9 (explaining that adjectival ratings are merely guides and critical question is whether record shows agency has reasonably considered content of the competing proposals).

Organization/Management Team

Finally, BCSS argues that the agency unreasonably evaluated the firm's proposal under the organization/management team factor. Comments at 32-46. The agency defends its evaluation as reasonable and consistent with the solicitation and the level of detail provided in BCSS's proposal. MOL at 12-15.

By way of background, the solicitation required offerors to submit an organizational chart and narrative that, among other things, identified the offeror's team and approach to performance. RFP at 28. In addition, offerors were required to submit a letter of commitment regarding bonding capacity of a minimum of \$50 million. *Id.* at 29. Under this factor, the RFP provided that the Corps would evaluate to ensure proposals met the submission requirements, noting that:

- a) Evidence of previous teaming experience between current team members may be considered a strength.
- b) Substantial ability to self-perform work required under this contract may be considered a strength.
- c) Evidence of your firm's ability to perform more than one (1) project, in geographically separate and remote areas, concurrently may be considered a strength.

Id. at 29. With regards to the letter of commitment, specifically, the RFP provided:

- a) A single contract/task order bonding capacity above those identified in the paragraph above may be considered a strength.
- b) A maximum bond duration of more than 5 years for any single project/task order may be considered a strength.

Id.

In evaluating BCSS's proposal under this factor, the evaluators identified strengths for the firm's substantial ability to self-perform work and for a large bonding capacity. AR, Exh. 22, SSEB Report at 19. According to BCSS, the agency should have also identified strengths in BCSS's proposal for meeting the other items listed above. Comments at 32-46.

The focus of the protester's argument here is with the last discussions that the agency conducted. When the agency opened discussions in May 2023, the agency provided, as a discussion enclosure, a copy of the SSEB's evaluation of the offeror's proposal. AR, Exh. 19, Discussions Letter. For the organization/management team factor, the evaluation reflected not only the strengths assigned, but also the reasons that the agency did not assign strengths where the evaluators did not find evidence of the some of the listed items above (*i.e.*, previous teaming experience; ability to perform more than one project in geographically separate and remote areas; or maximum bond duration). *Id.* at 7-8. For example, the discussions letter revealed:

BCSS proposal on page 66 highlights three projects managed by the same Area Manager with varying Project Managers at each location including contracts in El Centro and San Diego, CA as well as Robins Air Force Base, GA. The proposal includes no project or location descriptions and therefore does not adequately demonstrate how these locations are considered remote areas to justify a strength. This aspect of the proposal did not have merit or exceed specified requirements in a way that will be advantageous to the Government during contract performance in accordance with [the RFP] so as to be considered a strength.

Id. at 8. BCSS revised its proposal in response to the discussion notice. In evaluating the revised proposal, the SSEB observed:

BCSS proposal on page 72-73 highlights three projects managed by the same Area Manager with varying Project Managers at each location including contracts in El Centro and San Diego, CA, Chula Vista, CA, as well as Robins Air Force Base, GA. None of these locations are considered remote as they are either near major metropolitan areas or have a significant population and therefore does not adequately demonstrate how these locations are considered remote areas to justify a strength. This aspect of the proposal did not have merit or exceed specified requirements in a way that will be advantageous to the Government during contract performance in accordance with [the RFP] so as to be considered a strength.

AR, Exh. 22, SSEB Report at 20. According to BCSS, this is a new and different reason for the agency's evaluation and means that the agency's discussions were not meaningful. Comments at 43. Even if we were to accept BCSS's attenuated interpretation that this is a "new and different" reason--rather than a reiteration by the evaluators that BCSS did not "adequately demonstrate how these locations are considered remote areas to justify a strength"--we find no basis to object to the agency's conduct of discussions here. See *id.*

When an agency engages in discussions, they must be meaningful, that is, sufficiently detailed so as to lead an offeror into the areas of its proposal requiring amplification or revision. *Hanford Env't'l Health Found.*, B-292858.2, B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 8. In this regard, FAR section 15.306(d)(3) states that the discussions must address "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). The contracting officer is also encouraged--but not required--to discuss other aspects of the offeror's proposal that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award. Agencies, however, are not required to "spoon-feed" an offeror during discussions by identifying every possible area where a proposal might be improved or suggesting alternative approaches. *Vizada Inc.*, B-405251 *et al.*, Oct. 5, 2011, 2011 CPD ¶ 235 at 11. That is, a contracting officer is not required to discuss every area where the proposal could be improved in order for the discussions to be meaningful, and the precise content of discussions is largely a matter of the contracting officer's judgment. See FAR 15.306(d)(3); *American States Utilities Servs., Inc.*, B-291307.3, June 30, 2004, 2004 CPD ¶ 150 at 6.

We find the Corps's discussions with BCSS were meaningful because the agency provided the offeror with all required information. The record reflects that the agency found no deficiencies or significant weaknesses BCSS's initial proposal, nor has the protester alleged any. AR, Exh. 19, Discussions Letter at 7. Although the contracting officer could (and did) discuss other aspects of BCSS's proposal that merely met the

requirements and did not merit strengths, there was no obligation to do so. See *InfoPro, Inc.*, B-408642.2, B-408642.3, Dec. 23, 2014, 2015 CPD ¶ 59 at 9; *MCSA Rsch. Corp.*, B-278268, Apr. 10, 1998, 98-1 CPD ¶ 129 at 9 (denying protest that discussions were not meaningful because “agency was not required to specifically mention to [protester] during discussions enhancements that would improve [its] ‘acceptable’ rating”).

Finally, to the extent that BCSS views the agency’s conduct of discussions as misleading, BCSS has not identified any basis for this allegation. With regards to discussions, agencies 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 misinforms the offeror concerning a problem with its proposal or about the government’s requirements. *M.A. Mortenson Co.*, B-413714, Dec. 9, 2016, 2016 CPD ¶ 361 at 8-9. Here, the protester has not asserted any facts, let alone proffered any evidence, to support an argument that the agency’s discussions with BCSS were misleading.

The protest is denied.

Edda Emmanuelli Perez
General Counsel