



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

Comptroller General
of the United States

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: SunStone Technical Solutions, LLC

File: B-422540; B-422540.2

Date: July 25, 2024

Michael McGill, Esq., Nicole A. Williamson, Esq., and Kyung Liu-Katz, Esq., Arnold & Porter LLP, for the protester.

Michael L. Sterling, Esq., and Anthony J. Mazzeo, Esq., Woods Rogers Vandeventer Black, PLC, for Invictus Associates, LLC, the intervenor.

Emily Rubino, Esq., Rebecca Bailey Jacobsen, Esq., Todd W. Muse, Esq., and Alanna Brannam, Esq., Department of the Navy, for the agency.

Paul N. Wengert, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency misevaluated proposals under technical and maintenance, and past performance factors is denied where the record shows the evaluation was reasonable and consistent with the solicitation.
 2. Protest that agency made an unreasonable cost realism analysis is denied where the record shows the agency appropriately determined that the successful offeror's costs were adequately supported, and the agency properly applied indirect cost caps that the successful offeror proposed in making upward cost realism adjustments to the awardee's evaluated costs.
 3. Protest that agency made an unreasonable best-value determination is denied where the record shows the source selection authority appropriately considered the evaluation results, applied the solicitation criteria in assessing proposals, and reasonably determined that the protester's advantages, particularly under the past performance factor, did not justify incurring its higher costs.
-

DECISION

SunStone Technical Solutions, LLC, of Virginia Beach, Virginia, a small business, protests the issuance of a task order to Invictus Associates, LLC, of Roseland, Virginia, a small business, under task order request for proposals (RFP) No. N0016423R30001, issued by the Department of the Navy, Naval Sea Systems Command, for professional

fleet readiness support services for the Commander, Navy Regional Maintenance Center, in support of Navy forces worldwide. SunStone¹ argues that the Navy misevaluated both firms' proposals and made an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The Navy issued the RFP on January 11, 2023, to small business contractors holding the agency's SeaPort Next Generation (SeaPort-NxG) multiple-award task order contracts to obtain task order proposals to provide services for a base year and four option years on a cost-plus-fixed-fee basis. The task order would be issued to the firm whose proposal offered the best value, which would be assessed under three factors: (1) technical and management; (2) past performance; and (3) cost/price. RFP at 110.² The technical and management factor identified three elements: technical capabilities and approach, personnel requirements, and management approach. The technical and management factor was more important than the past performance factor and, when combined, those two factors were more important than the cost/price factor.

The RFP organized the Navy's performance requirements under two task areas. Task 1 was to provide various types of support to the Commander, Navy Regional Maintenance Centers, which is responsible for coordinating and scheduling the depot- and intermediate-level maintenance of the Navy's surface fleet. *Id.* at 15. Task 2 was to provide support to the Navy's Surface Team One, which is responsible for improving processes for, and management of, ship service life and readiness, and enhancing surface ship maintenance and modernization. *Id.* Task 1 was further divided into subtasks, such as program management support, engineering/technical support, contracts governance and policy support, and information technology support. *Id.* at 16. Task 2 was also divided into subtasks, ranging from program management and executive steering committee support, to knowledge sharing network and community of practice. *Id.* at 31.

Under the technical and management factor, vendors were to submit information under three elements, labeled A, B, and C. Under element A the proposal was to address the firm's technical capabilities and approach, including demonstration of the understanding, capability, technical approach, and corporate experience of the vendor

¹ SunStone is a mentor-protégé joint venture. The joint venture parties are Valkyrie Enterprises LLC, a large business and the incumbent contractor, and Solvere Technical Group, a small business. Agency Report (AR) Tab 8.1, SunStone Proposal vol. I at 13-14.

² Other than where specified, citations to the RFP are to the conformed RFP issued as amendment 4 on January 29, 2024, and identified in the record as AR Tab 3. For consistency, we cite to the PDF pagination of this and other record documents.

and any subcontractors. *Id.* at 97. Under element B, the proposal was to address the personnel requirements, including the proposed labor mix, key personnel resumes, and a staffing plan without cost information. *Id.* at 98-100. Under element C, the proposal was to address the firm's management approach, including an overall narrative, organizational chart, transition plan, hiring and retention of staff, and subcontractor management. *Id.* at 100-102.

The evaluation of each offeror's technical capabilities and approach would assess the degree to which the proposal "demonstrates specific understanding, capability, technical approach, and corporate experience (not individual employees)" to perform subtasks. *Id.* at 113. The evaluation of the personnel requirements element would assess whether key personnel resumes showed understanding and met required experience, and whether the proposed staffing plan showed the ability to perform successfully. *Id.* The final element, management approach, would be evaluated to assess whether the approach presented an integrated team, a coordinated and feasible approach, and whether the proposal addressed specific key elements. *Id.* at 114.

Under the past performance factor, the RFP directed vendors to submit past performance information for relevant performance, consisting of three references for the prime contractor and one for each major subcontractor. *Id.* at 102-103. As discussed further below, the specific cutoff for past performance permitted "[p]ast [p]erformance [r]eferences [that] encompass the previous five (5) calendar years from the date this RFP [was] issued." *Id.* at 102.

The RFP described the past performance evaluation as an assessment of an "overall Performance Confidence Assessment rating" based on the offeror's record of recency, relevancy, and quality of past performance. *Id.* at 111. With respect to recency, the RFP reiterated that references had to be "from the past five (5) calendar years" and linked recency as being "critical to establishing relevancy." *Id.* Regarding relevance, the RFP described four adjectival ratings: very relevant (involving essentially the same scope and magnitude of effort and complexities as the RFP), relevant (similar scope and magnitude), somewhat relevant (some of the scope and magnitude), or not relevant (little or none of the scope and magnitude). *Id.* at 112. The RFP also informed offerors that

A separate quality assessment rating is not required; rather, the Past Performance Confidence Assessment rating is based on the Offeror's overall record of Recency, Relevancy, and Quality of performance.

Id. The resulting past performance evaluation would then be expressed using adjectival ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. *Id.*

Under the cost/price factor, the RFP directed offerors to submit proposed costs and fee using a level of effort specified in the RFP. *Id.* at 104. The Navy would conduct a cost realism analysis of each offeror's proposed costs. *Id.* at 103. The RFP also required

offerors to submit supporting data for their proposed indirect cost rates and indicate whether the rates had been audited. *Id.* at 106. The RFP expressly provided that offerors could propose to cap their indirect rates and, when doing so, were required to provide “legally binding and enforceable verbiage, which shall be included in the resultant task order award.” *Id.*

The Navy received five initial proposals. The Navy evaluated each proposal and assessed strengths,³ weaknesses, significant weaknesses, and deficiencies for specific aspects of each, as provided in the RFP. *Id.* at 113. After evaluating these proposals, the Navy held discussions with all five offerors. After discussions were concluded, four offerors submitted final proposal revisions. Of those four, only those of Invictus and SunStone were evaluated as acceptable. AR Tab 6, Source Selection Decision (SSD) at 7. The final adjectival results for both offerors were as follows:

	Invictus	SunStone
Technical & Management	Outstanding	Outstanding
Past Performance	Satisfactory Confidence	Substantial Confidence
Total Eval. Price	\$73.7 million	\$76.8 million

AR Tab 6, SSD at 6-7.

The source selection authority (SSA) reviewed the evaluations of both proposals under the technical and management factor, which showed that both had multiple strengths, and no weaknesses or deficiencies. The SSA then compared the offerors’ strengths and determined that, while some strengths for one offeror were offset by comparable strengths for the other, Invictus had more strengths overall and had more strengths that were not offset, and that its proposal was therefore superior to SunStone’s under the technical and management factor. *Id.* at 19-25. In considering past performance, the SSA determined that SunStone’s past performance was broader, rated higher, and overall superior to Invictus’s. *Id.* at 26. Under the cost/price factor, the SSA noted that the agency had made a cost realism adjustment to Invictus’s proposed costs resulting in an increase of 3.56 percent, and no realism adjustment to SunStone’s proposed costs. A comparison of the realistic costs of both offerors showed that SunStone’s costs were 4.17 percent higher than Invictus’s costs after the realism adjustment. *Id.* at 26-27. The SSA then made a best-value determination that Invictus’s advantages under the more important technical and management factor outweighed SunStone’s advantage under the less important past performance factor, and Invictus’s proposed costs were lower even after the realism adjustments. *Id.* at 27.

³ A strength was defined as a feature that had merit or exceeded requirements in a way that would be advantageous to the Navy during performance. RFP at 113.

The SSA selected Invictus's proposal for award based on the judgment that its proposal offered the best value under the evaluation of all three factors and the RFP criteria. Following a debriefing, SunStone filed this protest.⁴

DISCUSSION

SunStone challenges the evaluation of its and the awardee's proposals on multiple grounds and argues that the resulting source selection decision was based on the flawed evaluation and failed to reasonably consider SunStone's non-price advantages over Invictus in the best-value tradeoff. We consider and resolve SunStone's main arguments in turn and conclude that none provide a basis to sustain the protest.

Past Performance Factor Evaluations

SunStone challenges the Navy's past performance evaluation on multiple bases. The protester argues that Invictus's past performance was on contracts that were much smaller and not relevant, and so, should not have been considered. Protest at 22; Comments & Supp. Protest at 5-9. The protester also argues that the past performance of Invictus's major subcontractor was not recent because, although the performance was within 5 calendar years of January 11, 2023 (when the RFP was issued), it was not within 5 years of the final amendment to the RFP over a year later. Comments & Supp. Protest at 10-11. SunStone also argues that the rating of Invictus's past performance as satisfactory confidence was unreasonable because the Navy only obtained information about the quality of the firm's performance for one of the firm's reference contracts. *Id.* at 12.

The Navy responds that its past performance evaluation was reasonable and consistent with the RFP. The agency argues that the record shows a detailed and careful consideration of each reference, and that the judgments were reasonable and consistent with the RFP criteria with respect to the recency and relevance of each reference, and for the quality of performance where that information was obtainable. The agency contends that it made an overall assessment that considered recency, relevance, and quality, and reasonably determined that Invictus's past performance justified a rating of satisfactory confidence. Memorandum of Law (MOL) at 5-6; Supp. MOL at 6-7.

In assessing a protester's challenges to a procuring agency's evaluation of past performance, we recognize that the evaluation of past performance, and within it, the assessments of the relevance of the offeror's references, are matters of agency judgment. Our Office will not sustain a protest unless the record demonstrates that the evaluation was unreasonable, inconsistent with the solicitation criteria, or

⁴ The value of the protested task order exceeds \$25 million, so this protest is within our jurisdiction to hear protests of task orders placed under defense agency task and delivery order contracts. 10 U.S.C. § 3406(f)(1)(B).

undocumented. *Legal Interpreting Servs., Inc.*, B-421368, B-421368.2, Apr. 7, 2023, 2023 CPD ¶ 88 at 4.

The record demonstrates that the past performance evaluation was reasonable and consistent with the RFP criteria. As noted above, the RFP provided that the past performance evaluation would involve an overall rating of past performance confidence that was “based on the [o]fferor’s overall record of [r]ecency, [r]elevancy, and [q]uality of performance.” RFP at 112. While SunStone emphasizes that the dollar values of Invictus’s past performance references were less than one tenth the anticipated value of the task order at issue here, the record reflects that the agency considered not only the dollar value of the references but also the tasks performed for each reference. AR Tab 4, Technical Evaluation Report at 52-54. The record shows that for each of the three references for Invictus’s own performance, the agency concluded that Invictus had demonstrated performance of some subtasks required under the RFP. *Id.* The record thus supports the Navy’s evaluation judgment that Invictus’s references were somewhat relevant, reflecting that they involved only some of the scope and magnitude of effort and complexities of the RFP.

The record also shows that the single past performance reference submitted for Invictus’s major subcontractor was also properly evaluated because it was within 5 calendar years of the date of the RFP, as the RFP specified. SunStone contends that the issuance of RFP amendment 4 on January 29, 2024, had the effect of resetting the date for determining whether past performance was within 5 calendar years. As a result, SunStone contends that it was improper for the Navy to continue to consider what had been evaluated as a very relevant past performance reference for Invictus’s subcontractor in the past performance evaluation. Comments & Supp. Protest at 10-11. We disagree.

The RFP instructed offerors that each past performance reference, including the one reference for any major subcontractor, was to be within “the previous five (5) calendar years from the date this solicitation is issued.” RFP at 102. SunStone’s construction of this phrase would turn “the date this solicitation is issued” into the date of the final amendment to the RFP. We see no basis to turn a clear standard for assessing whether past performance was recent--one based on the easily determined date of issuance of the initial RFP--into one that would require offerors and the agency to replace past performance references (which therefore would require new evaluations of those new references) as often as every time the agency issued an amendment.

We also see no basis to question the Navy’s assessment of Invictus’s overall past performance as satisfactory confidence. The RFP described an overall confidence rating that would consider not just the quality of relevant past performance, but a combined assessment of “[r]ecency, [r]elevancy, and [q]uality of performance.” *Id.* at 112. The record reflects that the agency succeeded in obtaining information about the quality of Invictus’s past performance for only one of its contracts, which the agency’s review showed was uniformly characterized as “[e]xceptional” throughout the reported time periods. On the other hand, it found no information about the quality of

either Invictus's performance or its subcontractor's performance on the other three past performance references. AR Tab 4, Technical Evaluation Report at 53. Nevertheless, as indicated above, we see no basis to question the Navy's assessments that each of Invictus's past performance references were recent under the standard in the RFP, that its references were somewhat relevant (or very relevant for its subcontractor's reference), and that the reported quality of the firm's performance--based on the single contract--was exceptional. Nevertheless, the record shows that the Navy considered all four of Invictus's past performance references--even those for which it had no information about the quality of the performance--and determined that as a whole they justified a rating of satisfactory confidence. We regard the agency's conclusions as reasonable and consistent with the terms of the RFP here, which expressly indicated that a separate quality assessment was not required. The record thus supports the Navy's overall assessment of Invictus's past performance and we therefore deny SunStone's challenges.⁵

Technical and Management Factor Evaluations

SunStone raises multiple challenges to the evaluation of proposals under the technical and management factor. In broad terms, SunStone argues that its own proposal should have been assessed numerous additional strengths for specific attributes, whereas Invictus's proposal should have been assessed multiple weaknesses or deficiencies because it lacks corporate experience. Protest at 29-36. Additionally, SunStone argues that the Navy mischaracterized the role of the mentor joint venture partner in its proposal as that of a subcontractor and thereby unreasonably discounted the value that

⁵ We have reviewed, but do not discuss in detail, SunStone's numerous other past performance arguments, which we conclude are likewise legally and factually unsupported by the record. For example, SunStone argues that it was improper to rate two of its past performance references as somewhat relevant when each had a scope and complexity more like the RFP than Invictus's. See AR Tab 4, Technical Evaluation Report at 65. The protester contends that using the same adjectival rating for relevance as was applied to Invictus's allegedly very different past performance was improper.

Our review of the record shows no error in the agency's assessment of SunStone's references as somewhat relevant. The evaluation identified specific subtasks that were not within the scope of each reference and reasonably concluded that the work thus involved only some of the scope and complexity of the RFP requirements, thereby justifying the assessment of each as somewhat relevant. *Id.* at 66-67. Further, the assignment of one adjectival rating versus another is typically immaterial where the agency's evaluation adequately captures the underlying merits of the proposals. *Onsite OHS, Inc.*, B-415987, B-415987.2, Apr. 27, 2018, 2018 CPD ¶ 164 at 6. The record here is consistent with this principle and shows that the Navy's SSA did not rely on adjectival ratings of the relevance of individual references and instead properly considered the basis of both offeror's past performance records. That led the SSA to recognize that SunStone's past performance was properly rated significant confidence overall and was superior to Invictus's. AR Tab 6, SSD at 16, 25-27.

the protester's mentor-protégé joint venture offered. Finally, SunStone contends that there are multiple instances where unequal treatment occurred when a strength was assessed for Invictus but not for SunStone despite proposing an equivalent approach. Comments & Supp. Protest at 33-44. Our review of the record finds no basis to sustain the protester's challenges to the technical and management factor evaluations. While we have reviewed all of SunStone's challenges and find that none have merit, we discuss specific challenges here as examples.

In reviewing a protest challenging a technical evaluation as unreasonable, we recognize that the contemporaneous evaluation record may lack documentation of evaluation judgments regarding individual aspects of a proposal that did not constitute strengths, and that a protester may later challenge as having been improperly disregarded. Nevertheless, the evaluation of proposals is a matter of agency discretion, so a protester must demonstrate that the failure to assess those allegedly overlooked strengths was unreasonable. *Metropolitan Life Ins. Co.*, B-412717, B-412717.2, May 13, 2016, 2016 CPD ¶ 132 at 13.

Failure to Assess Strength for [DELETED] Tool

SunStone contends that its proposal should have been assessed a strength for an aspect of its approach to performing subtask 3.1.1, program management support through software called the [DELETED], which SunStone asserts facilitates the total ship readiness assessment (TSRA) program. Protest at 29. The protester explains that the TSRA, in turn, is an essential element in performing contract requirements relating to availability planning and readiness preparedness. *Id.* SunStone argues that its proposal showed its expertise in operating the [DELETED] and included subject matter experts who had [DELETED] into the TSRA program. Among those experts was the original developer of the [DELETED], who would provide what SunStone asserts is unparalleled expertise in the use of the [DELETED]. *Id.*

Under statement of work task 1, subtask 3.1.1 required the contractor to provide program management support for department heads within the Commander, Navy Regional Maintenance Center. RFP at 16. The contractor was to "ensure efficiencies and effectiveness across RMCs [regional maintenance centers]" in multiple areas of performance and provide the department heads with "in-depth knowledge and expertise of higher headquarter policies" to assist the department heads to develop, implement and apply "best business practices, processes[,] and policies" in Navy maintenance. *Id.* The subtask also required the contractor to provide subject matter experts with in-depth knowledge of maintenance and modernization policies, processes, and "critical elements of [q]uality" in multiple subjects. *Id.*

In addressing task 1, SunStone's proposal identified its subject matter experts, including one described as having developed the [DELETED] program. AR Tab 8.1, SunStone Proposal vol. I at 18. The proposal pointed to the [DELETED] as an "example of where *our SMEs* [subject matter experts] drive program improvements that cross multiple organizational platforms." *Id.* at 19. The proposal described the [DELETED] as a tool

being used by all regional maintenance centers and shipyards to [DELETED] elements of their assessments which permitted the firm to extract metrics to determine trends and areas for improvement. *Id.* at 32.

The Navy contends that it evaluated SunStone's approach to performing the contract under the element A of the technical and management factor, which assessed the proposed technical capabilities and approach. MOL at 9. The Navy argues that SunStone's knowledge in implementing and operating the [DELETED] was reasonably assessed and the evaluators determined that it did not meet the criteria to be considered an evaluated strength under any of five subtasks, including subtask 3.1.1. *Id.*; accord. AR Tab 10, Decl. of Technical Evaluation Team Chair at 2. The Navy explains that SunStone's asserted capability with the [DELETED] addressed only one element of the requirement in subtask 3.1.1 to provide subject matter experts who understood critical elements of quality, but the [DELETED] was otherwise unrelated to broader subtask requirements. *Id.* at 4. Finally, the Navy argues that it appropriately dismissed as overstatements SunStone's claims of ownership or unique insight into the [DELETED] because the agency viewed the [DELETED] as a tool developed by a government employee at one of the regional maintenance centers, which also indicated that software maintenance and development expertise was not unique to SunStone. *Id.*

Based on our review of the record, SunStone has not demonstrated that the Navy unreasonably decided not to assess a strength based on the firm's abilities with the [DELETED]. While SunStone's proposal contends that the [DELETED] serves as an enhancement to the Navy's ability to [DELETED] about maintenance requirements at various regional maintenance centers, which can then allow for better analysis and planning, the Navy reasonably explains how the advantages of the [DELETED] are narrow in comparison to the objective of subtask 3.1.1 to obtain in-depth knowledge to support maintenance and business planning, and the uniqueness of SunStone's expertise with the [DELETED] as expressed in the firm's proposal was an overstatement.

Failure to Assess Strength for Additional Senior Staffing Effort

SunStone also argues that its proposal to provide additional staffing at the senior experience level should have been assessed as a strength under the personnel requirements element of the technical and management factor. Protest at 34-35. The protester explains that it elected to provide additional [DELETED] hours that enabled it to offer the [DELETED] non-key personnel in [DELETED] positions and thus provide greater expertise and continuity to the Navy. *Id.* at 34; AR Tab 8.1, SunStone Proposal vol. I at 102. SunStone notes that the Navy described this aspect of SunStone's proposal as providing "*a high quality, efficient, and cost[-]effective solution,*" but nevertheless failed to assess a strength reflecting what SunStone contends was plainly added value to the agency. Protest at 35 (quoting Protest exh. F, Debriefing Letter to SunStone at 12).

When issued (and through the issuance of amendment 3), the RFP specified a mandatory labor mix, divided between mid-level staff (having more than 5 years but no

more than 10 years of professional experience) and senior staff (having 10 or more years). AR Tab 2, RFP amend. 3 at 91-92. The original RFP required offerors to propose staffing at a level of 44,160 labor hours from mid-level staff and 132,480 labor hours from senior level staff per contract year and specified that any deviation (other than a minor and immaterial one caused by rounding) from those levels would render the proposal “non-responsive.” *Id.* at 92. In amendment 4, however, the Navy relaxed the mandate to follow the agency’s staffing levels by providing that the agency’s labor mix was recommended, rather than mandatory, so offerors could propose a different mix (although the total number of hours remained mandatory). RFP at 3, 98. Any deviations had to be accompanied by an explanation of how the offeror’s labor mix would “result in a high quality, efficient, and cost[-]effective solution.” *Id.*

The Navy contends that SunStone proposed a different labor mix than the RFP required in its initial proposal and was assessed a deficiency accordingly. MOL at 26. After holding discussions and issuing amendment 4, SunStone again proposed a different labor mix, specifically proposing more senior level staffing hours (offset by an equal reduction in mid-level staffing hours to maintain compliance with the mandatory total number of hours). *Id.* at 27. The Navy contends that it reasonably evaluated SunStone’s revised proposal under the amended RFP, included SunStone’s explanation to justify shifting staffing hours from mid-level to senior level, and reasonably determined that SunStone’s deviation was justified. *Id.* Even so, the Navy argues that the extent of SunStone’s deviation amounted to moving [DELETED] hours per year from [DELETED] to [DELETED] staffing--effectively shifting [DELETED]. Although SunStone’s revised proposal justified the deviation, the Navy argues it reasonably concluded that SunStone had not demonstrated that the change had sufficient merit or exceeded the required performance or capability to justify the assessment of a strength. *Id.*

Our review of the record confirms that the Navy reasonably did not assess a strength for SunStone’s proposal to provide additional senior-level staffing. In its revised proposal, the protester justified deviating from the agency’s labor mix on the basis that the personnel affected were [DELETED] AR Tab 8.1, SunStone Proposal vol. I at 102. The firm urged that the additional [DELETED] staffing would benefit the Navy, stating that “[t]his is advantageous to the [g]overnment by bringing added value with [s]enior experience at [DELETED] *Id.* Our review confirms that the agency’s recommended hourly staffing level equates to 69 full-time equivalents at the senior level and 92 full-time equivalents in total. We view the record as reasonably supporting the Navy’s judgment that adding [DELETED] to 69 (while also decreasing the mid-level staffing by [DELETED]) did not constitute a sufficient increase in the merit, performance, or capability of SunStone’s staffing approach, such that assessment of a strength was required.

Failure to Downgrade Invictus for Insufficient Corporate Experience

SunStone argues that Invictus lacks relevant corporate experience that the RFP required, and its proposal should have been significantly downgraded or rejected altogether under the technical and management factor. Protest at 37. While conceding

that Invictus has some corporate experience, SunStone argues that none of that experience involves being a prime contractor on an effort comparable in dollar value or complexity as the requirement under the RFP. Comments & Supp. Protest at 22-23. SunStone contends that the RFP criteria required the evaluators to focus on corporate experience apart from the other elements of the technical and management factor, but that the Navy unreasonably failed to consider and downgrade Invictus due to its alleged lack of comparable corporate experience. *Id.* SunStone also argues that the corporate experience of Invictus's subcontractor (even though it was previously the incumbent contractor) should have been viewed as "inherently risk[y]." Protest at 37.

The RFP set forth the evaluation criteria for the technical capabilities and approach element of the technical and management factor as evaluating the "degree to which the proposal demonstrates specific understanding, capability, technical approach, and corporate experience (not individual employees) for both Prime and Subcontractors in performing the specific SOW [statement of work]/PWS aspects as specified in Section L 4.2.1." RFP at 113. The RFP also noted that an offeror with no experience in a task area could be evaluated as a technical risk. *Id.*

The Navy responds that SunStone mischaracterizes the evaluation criteria as requiring that corporate experience be demonstrated as a prime contractor and further, only if the experience was a similar size and complexity as the task order contemplated by the RFP. MOL at 31. In contrast, the Navy argues, the evaluation was to assess corporate experience in conjunction with the understanding and capability to perform the requirements, and the assessment was to be of an offeror's proposed team. *Id.* The Navy contends that it reasonably evaluated Invictus's proposal as demonstrating "specific understanding, capability, technical approach, and corporate experience" as required by the RFP. *Id.* at 32. The Navy argues that it properly considered that Invictus proposed that its subcontractor would perform approximately [DELETED] percent of the effort, and that its proposed subcontractor had been the incumbent contractor into 2018. *Id.* In this regard, the Navy contends, both Invictus and its subcontractor had experience as subcontractors on the current fleet readiness contract. *Id.*

Our review of the record confirms the reasonableness of the Navy's evaluation here. Although SunStone emphasizes the difference in dollar value and number of tasks in Invictus's history, the RFP criteria did not require the evaluation to discount corporate experience because an offeror's previous contracts were smaller or of less complexity. Additionally, the RFP expressly provided for the agency to evaluate corporate experience for both the offeror and its subcontractor, so the Navy's consideration of the subcontractor's experience as the previous contractor for this requirement was proper. Consistent with the RFP providing for consideration of corporate experience for both the prime and subcontractor, Invictus's proposal included a table identifying corporate experience of the team that covered all of the task areas specified in the RFP. AR Tab 9.1, Invictus Proposal vol. I at 14-15. The record supports the Navy's evaluation of corporate experience in Invictus's proposal and provides no basis for our Office to sustain SunStone's challenge to it.

Failure to Recognize SunStone's Mentor-Protégé Structure

SunStone also argues that the evaluation mischaracterized and failed to recognize its status as a mentor-protégé joint venture--one that had met strict approval standards under the Small Business Administration's All Small Mentor-Protégé Program. Protest at 2. The protester contends that the Navy overlooked the unique benefit of SunStone's status in being able to offer the experience and resources of the current incumbent contractor as a member of the joint venture offeror itself. *Id.* Among other things, SunStone argues that it has its own record of successful contract performance working together that stands apart from the records of its two members. *Id.* SunStone also argues that the Navy downplayed what the firm regards as significant advantages from its mentor-protégé status and improperly compared it to Invictus's prime/subcontractor structure--incorrectly asserting that Valkyrie would no longer be supporting the agency "as the prime contractor." Comments & Supp. Protest at 28. An important distinction, SunStone argues, is that having the current incumbent contractor as a member of the joint venture makes the incumbent legally and contractually obligated to perform the task order, in contrast to a subcontractor like Invictus's proposal offered by proposing the previous incumbent as a subcontractor. *Id.* The distinction should have resulted in the Navy evaluating SunStone's proposal as superior to, rather than similar to, Invictus's, in SunStone's view. *Id.*

The Navy counters that SunStone's complaint overstates the benefits to the Navy of its mentor-protégé joint venture and its comparisons to the incumbent contractor. Significantly, the agency argues that the technical evaluators and the SSA both accurately acknowledged SunStone's status as a mentor-protégé joint venture, even though they did inaccurately refer to the mentor as a subcontractor in differentiating between past performance references, an error the Navy asserts was insignificant. MOL at 6. Beyond that, the Navy argues that the evaluation of SunStone's proposal was reasonable even if the agency was not persuaded that the protester's structure provided any advantages apart from those that were evaluated in its technical and management proposal, past performance record, and price/cost. *Id.* at 7.

Our review of the record confirms that the Navy's treatment of SunStone's mentor-protégé status was reasonable. In our view, the evaluation of the approach that SunStone's proposal presented was itself inherently the product of the firm's mentor-protégé structure, so the Navy was not obliged to make any separate appraisal of that status. Nor are we persuaded by SunStone's own belief that any reasonable evaluation should have drawn distinctions between the offerors based on differing degrees of legal and contractual obligation under the potentiality that Valkyrie on the one hand, or Invictus's subcontractor on the other, would fail to perform. No such evaluation or consideration was required under the plain terms of the solicitation.

As to the Navy's acknowledgement that it mistakenly labeled SunStone's members as prime and subcontractor in describing their past performance, we agree that the misnomer was insignificant; the record does not show that subcontractor performance, however labeled, was given less credit. Additionally, although the RFP limited offerors to providing a single past performance reference per major subcontractor, SunStone

submitted and the Navy evaluated two past performance references for Valkyrie, consistent with it being the mentor member of SunStone rather than a subcontractor. AR Tab 4, Technical Evaluation Report at 66-67. In short, the record shows that the Navy properly recognized SunStone's mentor-protégé joint venture status where required, and that it reasonably provided no further evaluation credit based on the protester's structure.

Unequal Evaluation Treatment

SunStone argues that the evaluation record reveals unequal treatment that disfavored its evaluation in multiple instances. As an example, SunStone argues that the Navy assessed a strength for Invictus's proposal regarding program management and knowledge management with respect to its implementation of program management and knowledge management with respect to its implementation of Microsoft SharePoint software and related administrative support. The protester argues that its proposed approach was equivalent but was not assessed a strength. Comments & Supp. Protest at 38-39.

As noted above, our review of the evaluation record recognizes the agency's discretion in determining whether particular aspects of a proposal constitute strengths. *Metropolitan Life Ins. Co.*, *supra* at 13. Where a protester contends that strengths were assessed unequally, we will not sustain the protest where the differences in the evaluation are caused on differences in the offerors' technical approaches. *Manhattan Strategy Grp., LLC*, B-420021 *et al.*, Oct. 26, 2021, 2021 CPD ¶ 351 at 6.

The Navy contends that the record does not show that SunStone proposed an equivalent approach to the one that was assessed as a strength for Invictus. Supp. MOL at 23. The agency notes that the strength assessed to Invictus's proposal more specifically identified the firm's exceptional experience supporting two subtasks requiring the contractor to populate and maintain the Surface Team One SharePoint site and requiring it to provide administrative support to Surface Team One for knowledge sharing networks and communities of practice, including planning and organizing meetings. *Id.* at 24 (citing AR Tab 4, Technical Evaluation Report at 42). The Navy argues that Invictus provided a detailed explanation of how its approach had produced results months ahead of peer efforts, how it was prototyping additional functionality and designing and testing a workflow in another two other applications to centralize and increase data access and reporting, and how it had implemented lessons-learned practices. Supp. MOL at 24. In comparison, the analogous approach in SunStone's proposal was unremarkable, and simply described success in meeting similar past requirements. *Id.*

Our review of the record supports the Navy's argument that SunStone has failed to demonstrate that its proposal offered equivalent depth of experience or a valuable approach that would justify the assessment of the same strength assigned to Invictus's proposal. The record confirms the Navy's characterization of the differences in the level of detail and insight both offerors provided, with SunStone's being relatively terse and

affirming that similar work in the past was successful, AR Tab 8.1, SunStone Proposal vol. I at 42, while Invictus's proposal explained how its approach to the subtasks exceeded requirements, ways that the approach would be further improved, and practices to benefit from experience. AR Tab 9.1, Invictus Proposal vol. I at 39. The clear differences in the firms' proposals in the allegedly unequal evaluations justifies the differences in the evaluations and we therefore deny SunStone's unequal treatment allegations. See *Manhattan Strategy Grp., LLC, supra* at 6 (denying protest where allegedly unequal evaluation treatment was the result of reasonable evaluation of evaluated differences in proposals).

Transition Manager

SunStone finally contends that Invictus's proposal was assessed a strength for proposing to provide a transition manager during its transition into performance, who would assist with the transition, at no cost to the government, during the 60-day transition period. SunStone contends that this approach violated the RFP requirement that offerors propose a single person for the program manager position, and that Invictus's proposal also failed to account for the transition manager's hours (which would have exceeded the level of effort specified in the RFP).

The RFP listed multiple key personnel positions and required the offeror to submit a resume for the candidate for each position, among which was a senior program manager. RFP at 99. The RFP also required the offeror to map company-specific labor categories to the agency's required labor mix and qualifications. *Id.* at 100.

The Navy argues that SunStone misstates the record and contends that Invictus's proposal of a transition manager at no cost to the government was both permissible and properly assessed as a strength. Supp. MOL at 30-31. The Navy contends that, contrary to SunStone's argument, Invictus's proposal clearly identified the proposed candidate for the program manager position and that individual's qualifications and duties, and a second person [DELETED] who would serve as a transition manager during the transition period. *Id.* at 30. This approach was designed to ensure that the program manager would be able to fully focus on and assume responsibility for current performance, which the Navy regarded as a valuable approach meriting a strength. *Id.* The Navy argues that the proposal of a no-cost transition manager did not constitute bifurcating the program manager's duties and did not increase the level of effort above the labor hour limit. *Id.*

We agree with the Navy that its evaluation of the strength was reasonable, and that SunStone had not demonstrated a violation of the terms of the RFP. In particular, the record confirms that while Invictus's proposed transition manager would assist the program manager during transition, it does not support SunStone's claim that duties of the program manager were being diverted to the transition manager. Nor do we see a basis to find that the Navy improperly waived either the requirement to map key personnel to their positions and duties or the RFP limit on staffing hours. Invictus's proposal provides both without regard to its transition manager. See AR Tab 9.5, Invictus Staffing Plan Spreadsheet. In short, the Navy's acceptance of Invictus's

approach to transition that included a transition manager at no cost was reasonable and SunStone has not shown that doing so violated the terms of the RFP. Accordingly, we deny SunStone's additional challenges.⁶

Cost Realism Analysis

As noted above, the RFP provided for the Navy to assess the cost realism of each offeror's proposed costs. SunStone argues initially that Invictus's costs were necessarily unrealistic because they were so much lower than SunStone's and because Invictus would necessarily face higher costs in pursuit of hiring the incumbent workforce. Protest at 43. SunStone also contends that the cost realism analysis unreasonably failed to include what the firm contends is a significant risk posed by Invictus's cost proposal. Specifically, SunStone notes that Invictus proposed indirect cost rates that were lower than its historical experience, and it further proposed to cap those indirect cost rates. Doing so, SunStone argues, means that performance of the contract will cost Invictus more than it receives in payment from the Navy. Comments & Supp. Protest at 50-51.

The Navy argues that it made a reasonable cost realism analysis of Invictus's proposed costs. The agency notes that, contrary to the premise of SunStone's argument, Invictus's proposal justified its costs using actual payroll data and contingent hiring salary agreements. Also contrary to SunStone's speculation, the Navy notes that the proposal did not rely heavily on capturing incumbent employees. MOL at 35-36. With respect to Invictus's proposed caps on its indirect rates, the agency argues that it properly recognized the capped rates and made a conservative cost realism adjustment by increasing Invictus's realistic costs to those caps for purposes of evaluation. Supp. MOL at 34-38. Beyond that, the agency argues, the protester's contention that Invictus will be unable to perform at its proposed costs is a challenge to the agency's determination that the awardee is responsible, that our Office does not consider.

A cost realism analysis is used to determine the extent to which the offeror's proposed costs are realistic. It aims to determine what, in the government's view, it is realistically likely to cost the offeror to perform according to the offeror's own technical approach. *SRS Techs.*, B-238403, May 17, 1990, 90-1 CPD ¶ 484 at 4 n.1. A procuring agency is not required to conduct an extensive analysis or to verify all elements supporting the cost realism assessment. Our Office will not disturb the agency's cost realism analysis unless it is shown to lack a reasonable basis. *Orbital Sci. Corp.*, B-414603, B-414603.2, July 26, 2017, 2017 CPD ¶ 249 at 7.

⁶ SunStone also argues that the offer to provide the [DELETED] manager's effort at no cost to the government was meaningless because that aspect of Invictus's proposal was allegedly not incorporated into the task order. Comments & Supp. Protest at 45-46. As discussed more fully later, the RFP anticipated--and the actual task order provided adequate language regarding--the incorporation of Invictus's proposal into the task order. That fact forms a sufficient basis to reject SunStone's claim that this aspect of Invictus's proposal was illusory and thus could not be considered a strength.

Our review of the record here supports the reasonableness of the Navy's cost realism analysis. The Navy appropriately reviewed the basis for Invictus's proposed costs and found that the firm had based them on actual costs of current employees, and that it had agreed compensation figures for contingent hires. Supp. MOL at 37-28 (discussing AR Tab 5, Cost Evaluation Report at 9-11). In combination, these provided a reasonable basis for the Navy to analyze the realism of Invictus's proposed costs for the required staff. Regarding the firm's proposed indirect cost rates, the agency recognized the risk posed because the firm's indirect rates had not been based on a firm history, but also that Invictus had proposed to cap those rates. In such circumstances, we have recognized that an agency may use the rate caps, rather than the lower proposed indirect rates, to assess cost realism and evaluate the offeror's costs.⁷ When an offeror proposes to impose a cap on specific costs, among which may be indirect rate caps or ceilings, then the agency's cost realism assessment may use the capped rates to calculate the probable cost of the offeror's proposal. *AdvanceMed Corp.; TrustSolutions, LLC, B-404910.4 et al.*, Jan. 17, 2012, 2012 CPD ¶ 25 at 18. We

⁷ SunStone also disputes the Navy's assertion that Invictus's proposal was incorporated into the task order, making its commitments regarding pricing matters contractually binding. The protester contends that the relevant clause in the task order incorporated only the technical volume of Invictus's proposal, not the cost/price volume where the capped rates were proposed. *E.g.*, AR Tab 9.3, Invictus Proposal vol. III at 24. SunStone further contends that the clause makes the incorporated technical proposal subordinate to the terms of the SeaPort-NxG contract, which would also negate the indirect cost caps.

Our review shows that the clause, titled "C-215-H002 Contractor Proposal (NAVSEA) (OCT 2018)" has two subsections. While subsection (b) does indeed provide that the contractor's technical proposal is incorporated into the task order and is then made subject to the order of precedence, SunStone's construction disregards subsection (a). Under subsection (a) the contractor agrees to perform the task order "in accordance with detailed obligations to which the Contractor committed itself in Invictus Associates' Proposal for Fleet Readiness Support . . . dated 02 February 2024 in response to [the RFP]." AR Tab 15, Invictus Task Order at 28; *see also* RFP at 106 (permitting offerors to propose indirect rate caps that would be evaluated and would then be made "legally binding and enforceable" in the task order).

The record thereby provides a sufficient basis to support the Navy's evaluation of Invictus's costs under its proposed indirect rate caps. Further, we also see no basis to sustain SunStone's argument that the Navy improperly disregarded the risk that Invictus would be unable to recover its costs of performance under the capped rates. Such challenges to an offeror's ability to perform under capped costs that are allegedly below the actual costs raise matters of the offeror's responsibility, rather than a flaw in the agency's cost realism evaluation. *Vectrus Mission Sols. Corp.; Vanquish Worldwide, LLC, B-418942 et al.*, Oct. 27, 2020, 2021 CPD ¶ 87 at 5. Our Office does not review affirmative determinations of responsibility absent certain limited circumstances.

4 C.F.R. § 21.5(c). SunStone has not shown that the facts here invoke the exceptions our regulations provide for considering an affirmative responsibility determination.

therefore conclude that the Navy's cost realism analysis was reasonable and consistent with the terms of the RFP and deny SunStone's challenges to it.

Evaluation of Personnel Qualifications

SunStone also contends that the Navy arbitrarily evaluated the same person as acceptable when proposed by Invictus but told SunStone during discussions that the person was unqualified. Specifically, SunStone argues that Invictus proposed the same person as its shipbuilding specialist, whom the Navy had identified as unqualified during discussions with SunStone, but then subsequently evaluated the person as qualified for that position. Comments & Supp. Protest at 46-47. SunStone argues that the discussions it received demonstrate that the individual was not qualified for the shipbuilding position, and therefore the evaluation of Invictus's proposal (which proposed that same individual in the shipbuilding specialist position) was unreasonable. *Id.*; Supp. Comments at 19-22.

The Navy argues that although the original discussions sent to SunStone erroneously stated that SunStone's candidate for the assessment director was not qualified for the shipbuilding specialist position, the agency properly corrected itself during subsequent discussions with SunStone to clearly state that its statements had been with respect to the assessment director position, not the shipbuilding specialist position. Beyond that, the Navy argues that SunStone has no evidence that the individual lacks the qualifications for the shipbuilding specialist position. Supp. MOL at 32-33.

The record reflects that during discussions, the Navy advised SunStone that its proposed assessment director did not meet the solicitation's qualification requirements for that position. The discussions were confusing, however, because the Navy referenced qualifications for the wrong position, the Senior Technical Instructor--Shipbuilding Specialist, rather than the assessment director position. Supp. AR Tab 11, Discussions Letter to SunStone at 1, 3. To correct this, in a subsequent discussion communication, the Navy acknowledged that the original discussions notice had incorrectly referenced the shipbuilding specialist position. The agency replaced the narrative with a corrected version to make clear that the individual proposed by SunStone did not meet the qualifications for the assessment director position. *Id.* at 3-4.

Here, the essential question is whether SunStone has provided evidence that the Navy's final evaluation was unreasonable. The only support SunStone identifies is the first discussions it received, which were later withdrawn and (as corrected) did not concern the qualifications for the shipbuilding specialist position. In short, SunStone has failed to show that its challenge to the Navy's evaluation of Invictus's shipbuilding specialist are borne out by the factual record, so we deny this ground of protest.

Best-Value Determination

SunStone also challenges the agency's best-value tradeoff, contending that it relied on adjectival ratings rather than material differences in the proposals, and that it undervalued SunStone's advantage under the past performance factor. The Navy disputes the allegations in SunStone's challenge and argues that the SSA considered the evaluation record in significant detail and made a reasoned judgment to select Invictus's proposal as the best value. We agree.

The record shows that, rather than relying on adjectival ratings as SunStone alleges, the SSA compared the evaluations of both firms' proposals under both the technical and management factor and the past performance factor. The SSA found multiple meaningful strengths in Invictus's proposal that were not offset by similar strengths in SunStone's proposal and reached a reasonable judgment that they made Invictus's proposal superior under the technical and management factor, which the RFP specified as the most important factor. The SSA also recognized that SunStone had a broader and higher-rated past performance record, making it superior to Invictus's under that factor, but which was less important than the technical and management factor. The SSA also weighed whether SunStone's proposal, including the higher level of confidence of successful performance that its past performance evaluation showed, would justify incurring higher costs--evaluated at 4.17 percent higher than Invictus's, and ultimately made the judgment that Invictus's proposal provided the best value.

The record thus shows a recognition of the substance of the evaluation, appropriate weighting of the evaluation results, and considered judgment in making a tradeoff. We therefore find no basis to sustain SunStone's protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel