



Decision

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Matter of: Ernst & Young, LLP

File: B-422469; B-422469.2

Date: July 3, 2024

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DIGEST

1. Protest challenging agency's evaluation of quotations under technical capability factor is denied where the evaluation was reasonable and consistent with the solicitation's evaluation criteria.
 2. Protest challenging agency's estimated labor hour allocations used in price evaluation is denied where the agency's basis for the labor hour estimates was reasonable and consistent with the solicitation's evaluation scheme.
 3. Protest alleging that agency improperly conducted discussions with only awardee is denied where, even if the exchange constituted discussions, the protester has not shown that it was competitively prejudiced by the agency's action.
 4. Protest challenging agency's comparative analysis and source selection decision is denied where the agency's best-value tradeoff and source selection decision were reasonable, adequately documented, and consistent with the terms of the solicitation.
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DECISION

Ernst & Young, LLP, of New York, New York, protests the award of a contract to KPMG LLC, of McLean, Virginia, under request for quotations (RFQ) No. HTC71123QD003, issued by the United States Transportation Command (USTRANSCOM) for accounting and financial operations support services. The protester challenges the agency's

evaluation of quotations, conduct of discussions, and resulting best-value tradeoff and award decision.

We deny the protest.

BACKGROUND

On August 18, 2023, the agency issued the solicitation to holders of the General Services Administration's (GSA) One Acquisition Solution for Integrated Services multiple-award indefinite-delivery, indefinite-quantity (IDIQ) governmentwide acquisition contracts, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 16.5. Contracting Officer's Statement (COS) at 2; Agency Report (AR), Tab 28, RFQ at 1.¹ The solicitation contemplated the issuance of a single task order consisting of fixed-price and time-and-materials line items, for a 1-month transition period, an 11-month base period, and four 1-year option periods, to provide contract support services for USTRANSCOM's accounting and financial operations. RFQ at 1.

The solicitation advised that the task order would be issued to the vendor whose quotation represented the best value to the agency, considering price and two non-price factors, technical capability and past performance. *Id.* at 13. The solicitation provided that the agency would consider three subfactors under the technical capability factor: (1) technical approach; (2) contract level management; and (3) staffing approach and mission essential plan. *Id.* The solicitation stated that, for the purposes of the best-value tradeoff, the technical capability subfactors were of equal importance to each other, and when combined were significantly more important than price. *Id.* The agency was to evaluate the apparent successful vendor's past performance on a confidence/no confidence basis and a rating of no confidence would render a vendor ineligible for award. *Id.* at 12-14. However, past performance would not otherwise be considered in the best-value tradeoff decision. *Id.*

Technical capability quotations were to consist of Microsoft PowerPoint slides addressing the technical approach and contract level management subfactors along with separate written submissions addressing the staffing approach and mission essential plan subfactor. *Id.* at 8-9. The agency was to evaluate quotations under the technical capability factor based on the written submissions and an oral presentation given by each vendor. *Id.* at 13. The solicitation provided that the agency could conduct a question-and-answer session after each oral presentation to address any questions regarding the vendor's technical approach. *Id.* The solicitation stated that vendors would be able to make changes to the presentation material based on the question-and-answer session within two business days of the oral presentation. *Id.*

¹ The agency amended the solicitation three times. Unless otherwise noted, citations to the solicitation in this decision are to the final version issued by the agency as amendment 03. The agency used a page number system to provide new page numbers to its exhibits. Citations to the agency report exhibits in this decision refer to the page numbers assigned by the agency.

The agency was to evaluate quotations under the technical capability factor to determine how well each vendor's quotation met the solicitation's performance requirements. RFQ at 15. The agency was to assign each quotation an adjectival rating of superior, acceptable, susceptible of being made acceptable, or unacceptable for each technical subfactor. *Id.* The solicitation defined a rating of superior as meeting all the performance work statement (PWS) requirements for that subfactor and exceeding one or more requirements in a way that "provide[s] benefit to the Government." *Id.* The solicitation defined a rating of acceptable as "meet[ing] all the requirements identified in the PWS as related to the . . . subfactor." *Id.*

The RFQ provided that the agency would calculate a total evaluated price by applying the agency's estimated labor hours for each year of task order performance to each vendor's proposed fully burdened labor rates for each labor category. *Id.* at 17. The solicitation specified that the estimated number of labor hours for each labor category would not be provided to the vendors as part of the solicitation. *Id.* The solicitation further specified that vendors' proposed prices for the fixed-price transition period would not be included in their total evaluated price. *Id.* The solicitation also stated that the agency could, but was not required to, conduct a price realism analysis to determine whether the labor rates proposed were realistic. *Id.*

The agency received two timely quotations in response to the solicitation, from Ernst & Young and KPMG. AR, Tab 51, Source Selection Document (SSD) at 1. Upon evaluation, the agency found that KPMG's quotation did not include proposed pricing for the fixed-price transition period as required by the solicitation. *Id.* at 2. The agency issued an evaluation notice to KPMG informing the firm of its incomplete quotation and provided KPMG an opportunity to revise its price quotation. *Id.*; AR, Tab 68, KPMG Communication at 1. KPMG subsequently submitted a revised pricing quotation that the agency found to be compliant and complete. AR, Tab 51, SSD at 2.

The agency evaluated Ernst & Young's and KPMG's quotations as follows:

	Ernst & Young	KPMG
Technical Capability		
Technical Approach	Acceptable	Acceptable
Contract Level Management	Acceptable	Acceptable
Staffing Approach and Mission Essential Plan	Superior	Acceptable
Past Performance	Not Evaluated	Confidence
Price	\$113,915,491	\$107,828,757

Id. at 2-3.

The source selection authority (SSA) independently evaluated the quotations and reviewed the quote evaluation team's (QET) findings. *Id.* Specifically, the SSA agreed with the QET's finding that Ernst & Young's quotation merited a single strength under

the staffing approach subfactor--[DELETED]--while KPMG's quotation did not warrant any assessed strengths. *Id.* at 2; AR, Tab 50, QET Report at 10. The SSA considered the relative merit of Ernst & Young's staffing advantage and found that it did not justify a \$6,086,734, or 5.34 percent, price premium because it would only be advantageous for 1 month, or 1/60th, of contract performance. AR, Tab 51, SSD at 2-3. Accordingly, the SSA found KPMG's quotation to represent the best value.

The agency notified Ernst & Young that it had not been selected for award and provided a debriefing. AR, Tab 61, Ernst & Young Debriefing Letter. This protest followed.²

DISCUSSION

Ernst & Young challenges the agency's evaluation of its quotation under the technical capability factor, the agency's price evaluation, the agency's conduct of discussions, and the agency's best-value tradeoff and award decision. In addition, the protester raises several collateral arguments. While our decision does not specifically address every argument, we have reviewed each argument and conclude that none provide a basis to sustain the protest.

Technical Capability

Ernst & Young challenges the evaluation of its quotation under the technical capability factor. Specifically, the protester contends that the agency unreasonably failed to assess strengths for 17 allegedly advantageous aspects of its technical quotation. Protest at 10-22; Comments & Supp. Protest at 3-19. The agency responds that its evaluation of Ernst & Young's technical quotation was reasonable and consistent with the terms of the solicitation. Memorandum of Law (MOL) at 12-45. In this regard, the agency generally argues that its evaluation team reasonably considered these quotation aspects to meet, but not exceed, the PWS requirements. *See, e.g., id.* at 14. USTRANSCOM contends that the protester's arguments amount to disagreement with the agency evaluators and do not provide a basis to sustain the protest. As discussed below in a few representative examples, we find that the agency's technical evaluation was reasonable and consistent with the terms of the solicitation.

Technical Approach Subfactor

The protester contends that its quotation should have received a strength under the technical approach subfactor for its detailed enterprise risk management (ERM) framework and day one implementation plan. Protest at 13-14; Comments & Supp. Protest at 4-6. The protester states that, during the incumbent contract, it "developed a detailed four-phased ERM implementation plan around USTRANSCOM's unique environment," which would allow it to continue the ERM implementation at the start of

² The task order at issue is valued in excess of \$10 million and was issued under an IDIQ contract established by GSA. Accordingly, our Office has jurisdiction to consider Ernst & Young's protest. 41 U.S.C. § 4106(f)(1)(B).

contract performance. Comments & Supp. Protest at 4-5. The protester argues that any other vendor would “need to begin at the development stage” and would not be able to begin implementation of the ERM framework on day one of contract performance. Protest at 14.

The agency responds that it reasonably found the elements the protester identifies as enhancements are basic requirements of an ERM framework that do not exceed requirements. COS at 19; MOL at 20. The agency also argues that the protester’s claim that non-incumbents would need to begin at the ERM framework development stage is incorrect because the agency owns the current framework developed by Ernst & Young and could provide it to a new contractor. MOL at 20. As discussed below, we find reasonable the agency’s conclusion that Ernst & Young’s ERM framework approach did not merit a strength.

The evaluation of quotations in a task order competition, including the determination of the relative merits of quotations, is primarily a matter within the contracting agency’s discretion, because the agency is responsible for defining its needs and the best method of accommodating them. *URS Fed. Servs., Inc.*, B-413333, Oct. 11, 2016, 2016 CPD ¶ 286 at 6. In reviewing protests of an agency’s evaluation and source selection decision in a task or delivery order competition, we do not reevaluate quotations; rather, we review the record to determine whether the evaluation and source selection decision are reasonable and consistent with the solicitation’s evaluation criteria and applicable procurement laws and regulations. *Sapient Gov’t Servs., Inc.*, B-412163.2, Jan. 4, 2016, 2016 CPD ¶ 11 at 4. A protester’s disagreement with the agency’s judgment, without more, is not sufficient to establish that an agency acted unreasonably. *STG, Inc.*, B-405101.3 *et al.*, Jan. 12, 2012, 2012 CPD ¶ 48 at 7. Further, an agency’s judgment of whether to assess 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. See *Lukos, LLC*, B-416343.2, Aug. 13, 2018, 2018 CPD ¶ 282 at 8 (finding that agency is not required to assign additional strengths where its evaluation was reasonable).

As an initial matter, the solicitation defined a strength as “an aspect of [a quotation] that has merit or exceeds the specified performance or capability requirements in a way that will be advantageous to the Government during contract performance.” RFQ at 15. Under the technical approach subfactor, the agency was to evaluate vendors’ ERM approaches for whether the approach satisfied the requirements of PWS task area four, including the “plan to develop and execute a strong ERM program.” *Id.* at 16. PWS task area four, subtask one required, in part, that the successful contractor will:

Assist in the development of an ERM framework and organizational risk profile that identifies financial, [information technology] and operational risks in USTRANSCOM’s mission and programs to support audit and prioritization of remediation efforts.

AR, Tab 24, PWS at 7. Task area four also required the contractor to “review current ERM procedures and perform a gap analysis [on] relevant standards [in order] to advise” on risk assessments. *Id.*

The record demonstrates that the agency’s evaluators reviewed Ernst & Young’s ERM approach and found that it was “capable of developing and executing a strong ERM program.” AR, Tab 50, QET Report at 8. The evaluators noted that the protester’s “four phased approach” included an ERM framework and also identified specific aspects of the approach that the agency concluded “met the requirements identified in the solicitation. *Id.* However, the evaluators did not find any aspect of the protester’s ERM approach merited a strength or rendered the quotation superior under the technical approach subfactor. *Id.*

On this record, we find that the agency has not acted unreasonably or inconsistently with the evaluation criteria by not assessing a strength based on Ernst & Young’s ERM framework. In this regard, the PWS requirement at issue required vendors to, in part, assist in the development of an ERM framework. PWS at 7. The agency considered the protester’s quotation in light of this requirement and found that Ernst & Young’s proposal of an existing ERM framework met, but did not exceed, the requirement. AR, Tab 50, QET Report at 8. While the protester believes that its ERM approach exceeds the PWS requirements, the protester has not meaningfully demonstrated that the agency failed to consider any aspect of its quotation or otherwise explained how its existing ERM framework or plan are advantageous to the agency.³

Further, to the extent Ernst & Young is arguing that its status as the incumbent and its experience developing the existing ERM framework with USTRANSCOM should have entitled it to strengths, we disagree. See Comments & Supp. Protest at 4. Our Office has explained that a protester’s apparent belief that its incumbent status entitles it to assessed strengths or higher ratings provides no basis for finding an evaluation unreasonable, as there generally is no requirement that a vendor be given additional credit for its status as an incumbent. *Gemini Tech Servs., LLC*, B-421911; B-421911.2, Nov. 22, 2023, 2023 CPD ¶ 267 at 5; *PricewaterhouseCoopers Public Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 7. While the protester argues that an agency may reasonably assess strengths flowing from a firm’s incumbency, Comments & Supp. Protest at 3-4 (*citing Tech Marine Bus., Inc.*, B-420872 *et al.*, Oct. 14, 2022, 2022 CPD ¶ 260 at 9 n.8), the protester does not meaningfully argue that the agency was required to do so here based on the solicitation’s evaluation criteria.

³ The protester concedes that USTRANSCOM “clearly owns the current draft ERM framework developed under the predecessor contract.” Comments & Supp. Protest at 5. Ernst & Young does not explain how its proposed day one ERM implementation would be different from the approach adopted by a vendor to whom the agency provides the incumbent ERM framework.

Ultimately, Ernst & Young's disagreement with the agency's conclusions on the relative merit of its ERM approach, without more, does not establish that the evaluation was unreasonable. *STG, Inc., supra*. Accordingly, we deny this ground of protest.

The protester also contends that its quotation should have received a strength under the technical approach subfactor for its plan to [DELETED]. Protest at 16; Comments & Supp. Protest at 6-7. Ernst & Young argues that providing [DELETED] improves upon the PWS requirements because it supports "a more thorough and robust AFR development process." *Id.*

The agency responds that it reasonably did not assess a strength because neither Ernst & Young's written quotation nor its oral presentation addressed in any detail [DELETED]. MOL at 26. The agency also argues that the provision of [DELETED] does not improve upon any PWS requirements or provide a benefit to the agency such that it would have merited a strength. *Id.* at 26-27.

As an initial matter, we note that neither the protester nor the agency properly characterizes the PWS sections relevant to the timely production of the AFR. The protester claims that its quotation exceeded a PWS requirement for the vendor to "[p]rovide quarterly written recommendation and guidance for" documents relevant to the AFR package. Comments & Supp. Protest at 7. However, the record reveals that this is a requirement from the initial PWS that was ultimately not included in the final amended PWS. *Compare* AR, Tab 4, Initial PWS at 14, *with* PWS at 5, 10. With respect to the agency, USTRANSCOM states that "there is no PWS requirement to provide a draft AFR," MOL at 27, however, the PWS clearly states that the successful contractor was to "develop quarterly draft [AFRs] in preparation for final AFR." PWS at 10.

The record demonstrates that Ernst & Young's slides make three references to a draft AFR where they state that, [DELETED]. AR, Tab 49, Ernst & Young Technical Slides at 34-35. A separate slide describing the agency's financial report cycle states that the process begins in the second quarter each year and [DELETED]. *Id.* at 33.⁴ However, nothing in the transcript of Ernst & Young's oral presentation discusses any specific timelines or explains the benefits [DELETED].⁵ See AR, Tab 46, Ernst & Young Oral Presentation Transcript.

⁴ None of the slides referencing the [DELETED] AFRs address or explain whether any of these is a [DELETED] draft as contemplated by the protester's pleadings. See Comments & Supp. Protest at 6.

⁵ Our review of the transcript only revealed one reference to the preparation of the AFR, where the protester explained that "[t]his is a year[-]long process and we have first[-]hand experience [of] all the effort that goes into preparing the financial statements and an AFR," and that they would use their experience to "deliver within [the agency's] timeline." AR, Tab 46, Ernst & Young Oral Presentation Transcript at 27.

On this record, we find no basis to sustain this protest ground. As discussed above, the PWS specifically requires the successful contractor to develop quarterly draft AFRs. PWS at 10. Ernst & Young does not meaningfully explain how its quoted intention to [DELETED] exceeds this requirement. While the protester claims that it proffered to have a purportedly more beneficial [DELETED], nothing in Ernst & Young's quotation discussed this [DELETED] or provided any explanation of why it was beneficial to the agency beyond meeting the solicitation's requirements. Comments & Supp. Protest at 7. It is a vendor's responsibility to submit a well-written quotation for the agency to evaluate, and where, as here, a vendor fails to do so, it runs the risk that its quotation will not be evaluated favorably. *Olympus Bldg. Servs., Inc.*, B-416599 *et al.*, Oct. 24, 2018, 2018 CPD ¶ 365 at 3.

Contract Level Management Subfactor

By way of another representative example, Ernst & Young contends that its quotation should have received strengths under the contract level management subfactor for its detailed contract level management and communication plans. Protest at 21-22; Comments & Supp. Protest at 17-19. The protester argues that the PWS does not require vendors to develop such plans, so their inclusion in Ernst & Young's quotation merited a strength because they would provide the agency with greater visibility, effectiveness, and understanding of contract level management and communication during performance of the task order. *Id.*

The agency responds that it reasonably concluded that these aspects of Ernst & Young's quotation do not exceed the PWS requirements in a way that benefits the agency. MOL at 40-41. The agency explains that the RFQ specifically required quotations to include a "comprehensive" contract management plan, and that the protester's proffered communication plan is simply a part of that plan. COS at 37; MOL at 40. The agency argues that, because the solicitation required a "comprehensive" plan, the fact that Ernst & Young's contract management and communication plans were detailed does not merit strengths because a comprehensive plan must be detailed.

Here, the RFQ instructed vendors' quotations to include "a comprehensive contract level management plan." RFQ at 9. The RFQ provided that the agency would evaluate quotations under the contract level management subfactor "for the inclusion of a comprehensive contract level management plan," including the vendor's approach to daily interaction with USTRANSCOM components and ability to provide status updates on projects. RFQ at 16. The evaluation record demonstrates that the agency found Ernst & Young's quotation "provided a comprehensive contract level management plan" and that communication was an area of focus. AR, Tab 50, QET Report at 9. The evaluators specifically documented their consideration of the protester's approach "to use communication through briefings, audit remediation, [and] accounting and automation updates." *Id.*

On this record, we find the agency's decision not to assess strengths for Ernst & Young's contract level management and communication plans to be reasonable and

consistent with the solicitation's evaluation criteria. As required by the RFQ, the agency considered the protester's comprehensive contract level management plan and found that plan, including the communication portions, met the requirements of the PWS. AR, Tab 50, QET Report at 9. While Ernst & Young clearly believes that its quoted plans exceeded the PWS requirements, it does not adequately support this claim or demonstrate that the agency failed to consider the quoted features. Without more, the protester's complaints in this regard reflect nothing more than its disagreement with the agency's judgement and provide no basis to sustain the protest. See *STG, Inc., supra*.

Price

Ernst & Young challenges the agency's evaluation of the vendors' price quotations. Protest at 23-24; Comments & Supp. Protest at 17-19. Specifically, the protester alleges that the estimated labor hours used by the agency to calculate vendors' total evaluated prices were unreasonable because they were inconsistent with historical performance and skewed in a manner that unreasonably benefitted KPMG. Comments & Supp. Protest at 19. In this regard, the protester contends that, when compared to the incumbent contract, the labor hour estimates unreasonably included too many labor hours for senior positions and underestimated the number of junior position labor hours.⁶ *Id.* at 21-22. The agency responds that its price evaluation was reasonable and consistent with the solicitation's evaluation scheme. MOL at 45-49.

The solicitation provided that the agency would evaluate price quotations by multiplying each vendor's fully burdened labor rates for each labor category by estimated labor hours for each year of task order performance that were not disclosed in the RFQ. RFQ at 17. The RFQ specified that the agency would use the same estimated labor hours for calculating the evaluated price of each vendor. *Id.* The agency explains that it developed the estimated labor hours, in conjunction with the program branch and division chiefs that would serve as task leads within each PWS task area, based on the level of effort necessary to accomplish the requirements of the PWS. COS at 42.

The record demonstrates that the agency calculated both Ernst & Young's and KPMG's total evaluated prices using the same set of estimated labor hours. AR, Tab 53, Price Analysis Abstract at 4-7. Each PWS task area included up to four experience-levels for each labor category: subject matter expert (SME), senior, journeyman, or junior.⁷ *Id.* The record shows the agency estimated that the SME labor categories would perform approximately 7 percent of the labor hours, the senior labor categories would perform

⁶ Ernst & Young argues that these labor hour estimates unfairly favored KPMG because, as a non-incumbent, it was more likely to assume it needed more labor hours from senior personnel due to a "higher learning curve" and was therefore more likely to price its senior labor categories lower. Protest at 24.

⁷ The labor categories used had different names depending on the PWS task area they were being used for; however, as relevant to Ernst & Young's protest ground, under each task area the labor categories were broken down using some or all of the above seniority levels. AR, Tab 53, Price Analysis Abstract at 4-7.

approximately 27 percent of the labor hours, the journeyman labor categories would perform approximately 52 percent of the labor hours, and the junior labor categories would perform approximately 14 percent of the labor hours.⁸ See *id.* at 4.

On this record we see no basis to question the reasonableness of the agency's estimated labor hour allocation. While the protester demonstrates that the agency's estimate weighed the labor hour allocation more heavily toward more senior, and therefore more expensive, labor categories than the incumbent contract, it has not demonstrated that the allocation used by the agency was unreasonable or contrary to the terms of the solicitation.⁹ See Comments & Supp. Protest, exh. 1, Comparison of Estimated to Incumbent Labor Hours. Ernst & Young's suggestion that the labor hours used on the incumbent contract constitutes a touchstone from which the agency must affirmatively justify any changes, without more, represents nothing more than disagreement with the agency's judgements.¹⁰

⁸ For example, the agency estimated that in the base year of task order performance, SMEs would perform 12,480 labor hours, seniors would perform 49,920 labor hours, journeyman would perform 95,520 labor hours, and juniors would perform 25,920 labor hours. AR, Tab 53, Price Analysis Abstract at 4.

⁹ Similar to its arguments challenging the consideration of its incumbent status, the protester argues that the agency should have given greater weight to the historical labor hours associated with the incumbent contract when estimating the hours because our Office has previously explained that it is not improper to do so. Comments & Supp. Protest at 21 (*citing Cantu Servs., Inc.*, B-408012, B-408412.2, May 23, 2013, 2013 CPD ¶ 135 at 4). The protester, however, mischaracterizes our decisions. While we have concluded that it may be reasonable for an agency to rely on data from an incumbent contract in formulating an estimate, we have not taken the position the agency is required to rely on such incumbent data or afford it any particular weight.

¹⁰ Our Office has found that post-award challenges to an agency's cost or price evaluation methodology are not timely, if the challenged methodology was set forth in the solicitation, because a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial quotations or proposals must be filed before that time. 4 C.F.R. § 21.2(a)(1); see *Ball Aerospace & Techs. Corp.*, B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 4 (*citing General Dynamics-Ordnance & Tactical Sys.*, B-401658, B-401658.2, Oct. 26, 2009, 2009 CPD ¶ 217 at 6). Here, the solicitation specified that the agency would calculate price using an estimated number of labor hours "for each year of task order performance" based on the PWS and that the estimated number of labor hours would not be provided to the vendors as part of the solicitation. RFQ at 17. Accordingly, to the extent the protester is broadly challenging the price evaluation methodology's use of an anticipated level of effort rather than historical data, we dismiss such arguments as untimely challenges to the terms of the solicitation.

Further, the protester has not demonstrated that it was harmed by the allegedly unreasonable shift to more senior labor hours. While Ernst & Young claims that the agency's estimated labor hours "unfairly tilted the evaluation in favor of KPMG" it does not show that it would have had a relatively more advantageous price had the agency not shifted as many hours to more senior positions. Comments & Supp. Protest at 22. To the contrary, our review of the labor rates and the two sets of estimated labor hours cited by the protester reveal that Ernst & Young may have been evaluated as having an even greater difference in price compared to KPMG, [DELETED], had the agency used the protester's historical labor hour allocation. *Compare* AR, Tab 53, Price Analysis Abstract at 4, *with* Comments & Supp. Protest, exh.1, Comparison of Estimated to Incumbent Labor Hours at 1.

Competitive prejudice is an essential element of a viable protest. Where a protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, our Office will not sustain the protest. See e.g., *Access Interpreting, Inc.*, B-413990, Jan. 17, 2017, 2017 CPD ¶ 24 at 5. Ernst & Young has made no such showing here. Even if the protester had provided a basis to find the estimated labor hours unreasonable, which it has not, the protester does not demonstrate that resolving this alleged error would have improved its competitive position. As such, we deny this ground of protest.

Unequal Discussions

The protester next argues that the agency engaged in unequal discussions with KPMG because it allowed KPMG an opportunity to submit a final revised quotation without providing the same opportunity to Ernst & Young. Comments & Supp. Protest at 25-28; Supp. Comments at 1-6. As explained below, we conclude that Ernst & Young has failed to demonstrate that it was prejudiced by the agency's action.

As noted above, this task order procurement was subject to the provisions of FAR subpart 16.5, which does not establish specific requirements for conducting clarifications or discussions. *Technatomy Corp.*, B-411583, Sept. 4, 2015, 2015 CPD ¶ 282 at 7. Where, as here, an agency conducts a task order competition as a negotiated procurement, our analysis regarding fairness, will, in large part, reflect the standards applicable to negotiated procurements. *Id.* Where an agency reopens discussions with one vendor after the receipt of final quotation revisions, it must afford all vendors in the competitive range an opportunity for reopened discussions. See *Ohio KePRO, Inc.*, B-417836.4, B-417836.5, Nov. 4, 2020, 2021 CPD ¶ 325 at 6.

By way of background, the solicitation provided that the agency could conduct a question-and-answer session after each oral presentation and vendors would be able to make changes to the presentation material, based on the question-and-answer session, within two business days of the oral presentation. RFQ at 15. Consistent with this solicitation provision, Ernst & Young was given a question-and-answer session and the opportunity to revise its quotation slides, which it did on January 16, 2024. AR, Tab 48, Ernst & Young Revised Slides.

The agency later issued an undated evaluation notice to KPMG informing the firm that its price quotation did not include a required price for the fixed-price transition period. AR, Tab 68, KPMG Communication at 1. The record demonstrates that the agency found that this omission rendered KPMG's price quotation incomplete and it asked KPMG to revise its price quotation accordingly. AR, Tab 51, SSD at 2; AR, Tab 68, KPMG Communication at 1. On February 8, KPMG subsequently submitted a revised pricing quotation that the agency found to be compliant and complete. AR, Tab 51, SSD at 2. The agency did not provide a similar evaluation notice and opportunity to submit a revised quotation to Ernst & Young.

Ernst & Young argues that the agency's exchange with KPMG constituted discussions because KPMG was allowed to submit a revised quotation to address a non-compliant price proposal. Supp. Comments at 3. The protester maintains that, had the agency provided Ernst & Young the same opportunity to submit a final revised quotation, it could have improved its competitive position by reducing its price. *Id.* at 6. The agency argues that the challenged exchange with KPMG was a clarification of a price line item that was not included in the total evaluated price. Supp. COS/MOL at 6. The agency contends that this exchange therefore did not constitute discussions with KPMG necessitating the reopening of discussions with Ernst & Young. Supp. COS/MOL at 6.

We need not address this argument, however, because even assuming for the sake of argument that Ernst & Young's claims have merit, we conclude that there is no reasonable possibility that the firm was prejudiced by the agency's actions. As noted above, competitive prejudice is an essential element of every 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 not sustain the protest, even if deficiencies in the procurement are found. See *IR Technologies, B-414430, et al.*, June 6, 2017, 2017 CPD ¶ 162 at 12.

Here, the record reflects that Ernst & Young's quotation was evaluated as acceptable under the technical approach and contract level management subfactors, and superior under the staffing approach and mission essential plan subfactor, and its price was considered fair and reasonable. AR, Tab 51, SSD at 3; AR, Tab 52, Price Analysis at 15. Therefore, even if the agency had held discussions with Ernst & Young, we fail to see what, if anything, would have been discussed. In the context of a FAR part 16 procurement, the protester has simply not established that its competitive position would have improved through discussions insofar as its quotation was evaluated as having no weaknesses, significant weaknesses, or deficiencies.

Ernst & Young merely argues that there is a "strong possibility" it would have used discussions as an "opportunity to revise its labor rates to ensure it was as competitive as possible."¹¹ Comments & Supp. Protest at 27. The protester explains that it "would

¹¹ The protester does not contend that it would have revised its non-price quotation. See Comments & Supp. Protest at 27.

have lowered [its] quoted pricing even in the absence of any other feedback” because the agency’s decision not to award on initial quotations suggested a “competitive procurement.” Supp. Comments, exh. 1, Account Lead Decl. at ¶ 8. Nonetheless, in March, after the agency had afforded KPMG an opportunity to correct its price quotation, the agency provided vendors with an opportunity to submit revised quotations, to include revised pricing, due to a change in the period of performance. Ernst & Young, however, declined to make any change to its labor rates or any change to its price for that matter. AR, Tab, 69, March Emails to Ernst & Young at 1; AR, Tab 70, March Emails to KPMG at 2.

Further, unspecific statements that the protester would have revised its quotation and reduced its price, are insufficient to establish a presumption of prejudice. *Deloitte Consulting, LLP*, B-422094, B-422094.2, Jan. 18, 2024, 2024 CPD ¶ 36 at 10; see *ASRC Fed. Sys. Solutions, LLC*, B-420443, B-420443.2, Apr. 12, 2022, 2022 CPD ¶ 96 at 10 (“a general contention that the protester might have revised its proposal during further discussions is insufficient to show competitive prejudice”). Because the record does not support a finding that, absent the agency’s conduct of unequal discussions, Ernst & Young would have altered its quotation to its competitive advantage, we find that the protester was not prejudiced by the agency’s conduct of discussions, and we deny this allegation.

Best-Value Tradeoff

Finally, Ernst & Young challenges the agency’s best-value tradeoff and source selection decision. Protest at 26-29; Comments & Supp. Protest at 22-25, 28-31; Supp Comments at 6-9. In this regard, the protester argues that the SSA’s tradeoff analysis was overly mechanical and failed to give proper weight to its evaluated technical advantages.¹² Comments & Supp. Protest at 22-25, 28-31.

Where, as here, a procurement provides for the issuance of a task order on a best-value tradeoff basis, it is the function of the selection official to perform a cost/technical tradeoff, that is, to determine whether one quotation’s technical superiority is worth its higher price. See *Alliant Enter. JV, LLC*, B-410352.5, B-410352.6, July 1, 2015, 2015 CPD ¶ 209 at 13. In this regard, FAR part 16 requires that agencies document the basis for award and the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision. FAR 16.505(b)(7). While there is no need for extensive documentation of every consideration factored into a source selection decision, the documentation must be sufficient to establish that the agency was aware of the relative merits and prices of the competing quotations, and that the source selection was reasonably based. *HP Enterprise Servs., LLC*, B-413888.2, *et al.*,

¹² Ernst & Young also contends that the agency’s best-value tradeoff and source selection decision were unreasonable because they were based on the alleged underlying evaluation errors discussed above. Comments & Supp. Protest at 22-23. Given our conclusions about the reasonableness of the agency’s evaluation, this argument does not provide a basis to sustain the protest.

June 21, 2017, 2017 CPD ¶ 239 at 9.

Here, the record shows that the agency's evaluators reviewed and documented what they considered to be the relative merits of the quotations. AR, Tab 50, QET Report; AR, Tab 52, Price Analysis; AR, Tab 53, Price Analysis Abstract. While the solicitation set forth the technical capability factor as the most important evaluation factor for award, specifying that its subfactors, when combined, were significantly more important than price, it did not specify whether a single subfactor was more important than price. RFQ at 13. In the best-value tradeoff analysis, the SSA considered Ernst & Young's relative technical merit under the staffing approach and mission essential plan subfactor and ultimately decided that the single assessed advantage in Ernst & Young's quotation (for transition staffing) did not justify a \$6,086,734, or 5.34 percent, price premium because this advantage would only be relatively beneficial for 1 month, or 1/60th, of contract performance. AR, Tab 51, SSD at 3. On this record, we see nothing objectionable in the SSA's conclusion that the lower-priced quotation was a better value than a more expensive, slightly higher technically rated quotation.¹³

While the protester objects to some of the language used in the SSD and technical evaluation as mechanical and argues that the language indicates the agency failed to reasonably consider discriminators that should have tipped the tradeoff in Ernst & Young's favor, we do not find the protester's arguments persuasive. See Supp. Comments at 7-9 (objecting to the use of the repeated summary description that there is no "discernable difference" between the approaches). The record shows, however, that before the repeated use of the phrase "no discernable difference" in the QET report, the

¹³ The protester also argues that a statement in the SSD that KPMG's "overall technical approach ensures they can execute this requirement at a lower price" than Ernst & Young is inconsistent with the solicitation's price evaluation criteria. Comments & Supp. Protest at 28-29; Supp. Comments at 6-7. In this regard, the protester alleges that the statement indicates that the agency improperly conflated the evaluations of technical and price quotations contrary to the terms of the solicitation or afforded KPMG an undocumented technical advantage. *Id.* The agency responds that the protester misconstrues the language of the SSD and the phrase is merely a restatement that KPMG had an acceptable technical quotation and was evaluated to be the lowest-priced quotation. Supp. COS/MOL at 8-12.

Our review of the record leads us to conclude that the objected-to phrase is most likely an unfortunate example of poor wordsmithing, and we see no support for the interpretation espoused by the protester. At any rate, we fail to see how this statement provides a basis to question the reasonableness of the agency's documented evaluation and tradeoff decision. While the protester speculates that the statement indicates the agency conducted additional evaluations of KPMG's quotation, it has not demonstrated that it was prejudiced by these alleged actions, where the agency did not rely on the above statement in its tradeoff decision. Accordingly, we deny this ground of protest.

evaluators documented specific aspects of the vendors' approaches and recognized that the proposed approaches were unique. See, e.g., AR, Tab 50, QET Report at 8.

Reading the evaluation record as a whole, it is clear that the agency's use of the term "discernable difference" was used as a synonym for discriminator, and not as an indication that the agency had determined the technical approaches to be nearly identical. For example, in the SSD, the SSA referred to Ernst & Young's staffing strength--that merited its superior rating under the staffing approach and mission essential plan subfactor--as the protester's "one discernable difference." AR, Tab 51, SSD at 2. Ultimately, Ernst & Young's disagreement with the agency's conclusions regarding the relative merits of the quotations, without more, does not establish that the source selection was unreasonable. *CACI-WGI, Inc.*, B-408520.2, Dec. 16, 2013, 2013 CPD ¶ 293 at 17.

The protest is denied.

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