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Decision

Matter of: Bhate Environmental Associates, Inc.

File: B-422557.2; B-422557.3

Date: January 3, 2025

Joseph G. Martinez, Esq., and Stephen G. Robison, Esq., Dentons US LLP, for the protester.

Christopher J. Slottee, Esq., Schwabe, Williamson & Wyatt P.C., for Trinity Analysis and Development Corp., the intervenor.

Michelle A. Dexter, Esq., Department of the Interior, for the agency.

Jacob M. Talcott, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of quotations is denied where the evaluation was reasonable and in accordance with the terms of the solicitation.
 2. Protest alleging that the agency failed to adequately address a purported conflict of interest is denied where the agency meaningfully considered the allegation and reasonably concluded that no conflict of interest existed.
 3. Protest that the agency failed to conduct a proper best-value tradeoff analysis is denied where protester fails to demonstrate that the tradeoff was unreasonable.
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DECISION

Bhate Environmental Associates, Inc., a small business of Birmingham, Alabama, protests the issuance of a task order to Trinity Analysis and Development Corp., a small business of Shalimar, Florida, under request for quotations (RFQ)

No. 140D0424Q0103, for environmental services at three U.S. Air Force installations in Florida. The Department of the Interior issued the solicitation on behalf of the Department of the Air Force. The protester contends that the agency unreasonably evaluated quotations, failed to adequately respond to an apparent conflict of interest, and conducted a flawed best-value tradeoff.

We deny the protest.

BACKGROUND

On December 13, 2023, the agency issued the subject solicitation as a small business set-aside under the General Services Administration's Federal Supply Schedule in accordance with the procedures of Federal Acquisition Regulation (FAR) subpart 8.4. Agency Report (AR), Tab 1, Contracting Officer's Statement (COS) at 2.¹ The RFQ contemplated the issuance of a task order with fixed-price, time-and-materials, and labor hour contract line item numbers. *Id.* The due date for quotations, as amended, was February 9, 2024. AR, Tab 4, RFQ amend. 0002 at 2.²

The RFQ provided for the evaluation of quotations under the following four evaluation factors: technical, management approach, past performance, and price.³ AR, Tab 2, RFQ at 37. The technical factor required vendors to provide a written narrative that addressed the following five subfactors: technical approach, phase-in, work control plan, quality control plan, and property management plan. *Id.* For technical approach, the agency would evaluate the vendor's understanding of hazardous waste and material management, sampling/testing analysis and monitoring, environmental plans, cultural resources, and natural resources program areas, with particular focus given to permit renewals and sampling/testing/analysis/monitoring. *Id.* For phase-in, the agency would evaluate the vendor's strategy for assuming complete responsibility of the project within a two-week period. *Id.* at 37. For work control plan, the agency would evaluate the vendor's ability to execute recurring tasks and unanticipated tasks simultaneously without negatively impacting performance. *Id.* at 38. For quality control plan, the agency would evaluate the proposed plan for logic, reasonableness, and pertinence to the subject project, with preference given to plans that eliminated errors and rework from the permit renewal process and demonstrated success on past projects. *Id.* For property management plan, the agency would evaluate the plan for logic, reasonableness, and pertinence to the subject project. *Id.*

¹ All citations reference the Adobe PDF page number.

² The agency amended the solicitation three times. COS at 2. As relevant here, amendment two extended the due date for technical quotations to February 9; amendment three extended the due date for updated pricing to February 22. See AR, Tab 4, RFQ amend. 0002 at 2; AR, Tab 5, RFQ amend. 0003 at 2.

³ The solicitation provided that the agency would assign quotations a rating of high confidence, some confidence, or low confidence for the technical, management approach, and past performance factors. RFQ at 38-39. As relevant here, a rating of high confidence indicated that the agency had high confidence that the vendor understood the requirement, proposed a sound approach, and would be successful in performing the contract with little or no agency intervention. *Id.* at 38. A rating of some confidence indicated that the agency had some confidence that the vendor understood the requirement, proposed a sound approach, and would be successful in performing the contract with some agency intervention. *Id.* at 39.

For property management approach, vendors were to describe their overall organizational structure, project teaming arrangements, and key personnel. *Id.* Vendors also were to provide a resume for all management positions and any other key personnel. *Id.* The solicitation provided that the agency would evaluate the management approach narrative for logic, reasonableness, and pertinence to the subject project. *Id.* For past performance, the agency would use past performance questionnaires and the contractor performance assessment reporting system to evaluate the vendor's past efforts that were recent, relevant, and similar in scope, complexity, and magnitude to the current requirements.⁴ *Id.* For price, the agency would assess the vendor's proposed level of effort and mix of labor, and determine whether the total price was reasonable. *Id.*

The solicitation provided for award on a best-value tradeoff basis in accordance with FAR section 8.405-2(d). *Id.* at 39. The non-price factors were listed in descending order of importance, and, when combined, were significantly more important than price. *Id.* at 37.

The agency received three quotations by the initial quotation deadline on February 9, including quotations from Bhate and Trinity. AR, Tab 9, Initial Source Selection Decision Document (SSDD) at 4.

⁴ The solicitation provided that under the past performance factor, in addition to assigning a confidence rating, the agency would assign a relevance rating of very relevant, relevant, somewhat relevant, or not relevant. RFQ at 39. A rating of very relevant indicated that the past performance effort was essentially the same in scope, magnitude of effort, and complexities as the subject solicitation. *Id.* A rating of relevant indicated that the past performance effort was similar in scope, magnitude of effort, and complexities to the subject solicitation. *Id.* A rating of somewhat relevant indicated that the past performance effort involved some of the scope, magnitude of effort, and complexities as the subject solicitation. *Id.* A rating of not relevant indicated that the effort involved little to none of the scope, magnitude of effort, and complexities of the subject solicitation. *Id.*

Initial Evaluation and Corrective Action

The results of the initial evaluation were as follows:

	Bhate	Trinity
Technical Approach	Some Confidence	Some Confidence
Phase-In	High Confidence	High Confidence
Work Control Plan	Some Confidence	High Confidence
Quality Control Plan	Some Confidence	High Confidence
Property Management Plan	High Confidence	High Confidence
Past Performance	High Confidence/Very Relevant	High Confidence/Very Relevant
Price	\$26,541,986	\$27,248,681

Id. at 15-16. Following the evaluation, the agency issued the task order to Trinity on April 22. *Id.* at 21. Bhate filed a protest with our Office on May 2, challenging the agency’s source selection decision. COS at 3. In response to the protest, the agency informed our Office that it intended to take corrective action. *Id.* Specifically, the agency stated that it would reevaluate quotations and perform a new best-value tradeoff decision. *Id.* As a result of the agency’s proposed corrective action, we dismissed the protest as academic on May 22. *Bhate Environmental Associates, Inc.*, B-422557, May 22, 2024 (unpublished decision).

Reevaluation and Current Award

On August 16, the agency completed its reevaluation; the results were unchanged from the initial evaluation. See AR, Tab 14, Corrective Action SSDD at 2-3.

In conducting the best-value tradeoff between quotations, the agency explained that Trinity’s quotation represented the best value due to its “numerous technical strengths” and lowest risk of unsuccessful performance. *Id.* at 9. Although the evaluators assigned both quotations a rating of “some confidence” under the technical approach subfactor, the evaluators considered Trinity’s quotation to be stronger under this subfactor because Trinity’s experience went “beyond the surface level of the requirement” and described “specific measures . . . to implement the requirements at the lowest level.” *Id.* at 10. Bhate’s quotation, on the other hand, “lacked detail and utilized general language” that could apply to any Air Force base rather than the installations listed for this solicitation. *Id.* Under the phase-in subfactor, the agency found the quotations equal as both provided an “exceptional understanding” to assume complete responsibility during the phase-in. *Id.*

The technical difference between the quotations was “most apparent” under the work control plan and quality control plan subfactors, according to the SSDD. *Id.* In evaluating the work control plan, the agency concluded that Trinity’s quotation was technically superior in a number of areas, including its refined approach and management system with defined roles, attention to detail, and clearly delineated processes. *Id.* Conversely, the agency took issue with Bhate’s quotation under this subfactor due to its lack of detail regarding risk management. *Id.* The agency also viewed Bhate’s plan to utilize an offsite project manager as problematic due to Bhate’s “fail[ure] to clearly explain” the communication channels, if any, between the project manager and agency representatives. *Id.* Trinity’s work control plan did not present the same risk of miscommunication due to its onsite project manager who was responsible for direct oversight and communication with agency representatives. *Id.*

With respect to the quality control plan, the agency explained that Bhate’s quotation lacked specific details that could result in a risk to quality. *Id.* For instance, the agency found that Bhate’s quotation failed to address a plan for conflict resolution and the elimination of errors for permit applications. *Id.* at 11. Trinity’s quotation, in contrast, included a detailed sequential schedule for the permit renewal process and demonstrated accountability for timeliness and quality of the renewal submissions. *Id.*

Under the management approach factor, the agency concluded that although both quotations received a rating of high confidence, Trinity’s quotation was more advantageous due to providing onsite management. *Id.* Specifically, the agency distinguished Trinity’s quotation from Bhate’s quotation by explaining that Trinity identified two managers with onsite management capability while Bhate identified two managers that were working only in a “reach back” capacity. *Id.* The only onsite personnel quoted by Bhate had not been identified. *Id.* Given the agency’s preference for onsite management, the agency concluded that Trinity’s quotation was more advantageous under the management approach factor. *Id.*

Under past performance, the agency explained that both quotations were “extremely competitive” as both demonstrated relevant experience of a similar scope. *Id.* The agency nonetheless concluded that Bhate’s quotation was more advantageous under this factor, in part due to demonstrating more work as the prime contractor in its past performance examples. *Id.*

Based on the foregoing evaluation, the agency determined that Trinity’s quotation represented the best value to the agency, explaining that the technical advantages of Trinity’s quotation were worth its “modest price premium.” *Id.* at 11-12. On August 16, the agency informed Bhate that its quotation was not selected for award. Protest, attach. 3, Brief Explanation at 27. This protest followed.

DISCUSSION

Bhate raises several challenges to the evaluation of its quotation and Trinity's quotation. Protest at 7; see *also* Comments at 12-18.⁵ Bhate also argues that the agency failed to address an apparent conflict of interest. Protest at 7. In its supplemental protest, Bhate raises additional challenges to the agency's evaluation of quotations, namely that the agency engaged in disparate treatment. Supp. Protest at 10-12. Finally, Bhate contends that the agency's best-value tradeoff was flawed. Protest at 7. For the reasons discussed below, we deny the protest.⁶

The evaluation of quotations is a matter within the discretion of the procuring agency. *Platinum Bus. Servs. LLC*, B-419930, Sept. 23, 2021, 2021 CPD ¶ 348 at 4. In reviewing a protest of an agency's evaluation of quotations, it is not our role to reevaluate quotations; rather, our Office will examine the record to determine whether the agency's judgment was reasonable and consistent with the solicitation criteria. *Id.* A vendor's disagreement with the agency, without more, does not render the evaluation unreasonable. *Id.*

Challenges to the Evaluation of Bhate's Quotation

The protester challenges the evaluation of its quotation under the technical approach, work control plan, and quality control plan subfactors of the technical factor.

Technical approach subfactor

Bhate raises two challenges to the evaluation of its quotation under the technical approach subfactor. Comments at 12-13. First, Bhate contends that the agency improperly assigned its quotation a weakness due to its lack of detail in describing its permit renewal process. *Id.* at 12. Second, Bhate argues that the agency unreasonably concluded that its quotation failed to address the requirement to collect necessary samples within thirty minutes of a qualifying rain event. *Id.* at 13. In response, the agency contends that both of the challenged weaknesses were reasonably assigned. Agency Resp. to Comments at 2-3.

Based on the record, we have no basis to object to the agency's evaluation here. With respect to permit renewals, the technical approach subfactor provided that vendors were to "outline the steps and coordination that will be taken during the permit renewal

⁵ Although not labeled by the protester as supplemental protest grounds, our Office identified several new protest grounds raised in the protester's comments on the agency report that were not raised in its initial protest. See Comments at 12-18. Accordingly, this decision cites the initial protest, supplemental protest, and comments to reference the various protest grounds.

⁶ Although we do not address every argument raised by the protester, we have considered them and find none to be meritorious.

process.” RFQ at 37. In evaluating this subfactor, the evaluators noted that while Bhate’s quotation proposed to schedule permit renewals “up to 6 months in advance,” it failed to acknowledge Florida’s requirement that entities submit permit renewals 225 days before expiration. AR, Tab 13, Corrective Action Technical Evaluation at 1. Additionally, the evaluators noted that Bhate’s quotation lacked sufficient detail concerning the renewal process and used only general language that could apply to any Air Force installation rather than the installations listed for this procurement. *Id.*

Bhate does not object to the agency’s conclusion that its quotation failed to meet the permit renewal requirements for Florida, nor does it deny that these requirements were applicable here. See Comments at 12-13. Instead, Bhate argues that the evaluation was unreasonable because its quotation provided that “permit renewals will occur on specific schedules unique to the site or permit.” *Id.* at 12. We find Bhate’s response unpersuasive as it does not address the agency’s conclusion that Bhate’s quotation failed to meet the state-specific requirements for permit renewal. Additionally, we agree with the agency that simply stating that permit renewals will occur on time does not meet the solicitation’s requirement to provide an outline for the steps and coordination of the renewal process. Instead, this portion of Bhate’s quotation supports the agency’s conclusion that Bhate’s permit renewal plan lacked specific detail and could apply to any Air Force installation. This protest ground is thus denied.

We also deny Bhate’s argument that the agency unreasonably concluded that Bhate’s quotation failed to acknowledge the requirement to collect a sample within the first thirty minutes of a qualifying rain event. In responding to this finding, Bhate argues that its quotation provided that it would collect the sample “as soon as it is safe during or after a qualifying rainfall event during daylight hours.” Comments at 13. Bhate’s statement does not reference the thirty-minute requirement. As such, the protester’s assurance to collect a sample as soon as it is safe does not guarantee that Bhate will comply with the requirement to collect the necessary sample within the first thirty minutes of a qualifying event. We therefore have no basis to find the agency’s evaluation unreasonable here.

Work control plan subfactor

Bhate next challenges the evaluation of its quotation under the work control plan subfactor.⁷ *Id.* at 13-14. Specifically, Bhate argues that the evaluation “assert[s] an ambiguity where none is present” by stating that there was confusion about the onsite technical lead and the onsite manager. *Id.* at 14. In evaluating this portion of Bhate’s quotation, the agency concluded that Bhate failed to provide a well-written quotation as it did not provide a named individual for the onsite manager position, and it also was unclear whether the onsite manager would act independently of the project manager. Agency Resp. to Comments at 5; AR, Tab 13, Corrective Action Technical Evaluation

⁷ Many of the supplemental arguments raised by Bhate in its comments on the agency report were raised again in its supplemental protest. Accordingly, this section addresses the arguments that Bhate raised only in its comments.

at 2. Furthermore, the agency noted that Bhate listed “n/a” in its quotation when prompted to indicate whether it would propose an onsite manager who would meet or exceed the requirements. AR, Tab 13, Corrective Action Technical Evaluation at 2.

Based on the record, we have no basis to object to the agency’s conclusion. Although Bhate argues that this evaluation was irrational, it has not demonstrated that the agency committed any error. The excerpts from its quotation provided by Bhate in support of its challenge to the agency’s evaluation instead support the agency’s findings. For instance, in its comments, Bhate explains that it had “the intent” to incorporate the onsite manager “[i]f possible . . . from the existing pool of incumbent personnel.” Comments at 14. If Bhate were not able to hire an individual from that pool, it stated that it would “draw from the pool” of another office. *Id.* These statements fail to address the uncertainty identified by the agency; instead, they support the agency’s conclusion that it was unclear whether Bhate would propose an onsite manager who would meet the qualifications. Accordingly, we deny this protest ground.

Quality control plan subfactor

Bhate next challenges the agency’s evaluation of its quotation under the quality control plan subfactor. Comments at 15-17. First, Bhate argues that the agency “incorrectly conclude[d]” that its quotation failed to provide sufficient detail for its quality assurance/quality control review for permitting, conflict resolution, and elimination of errors from the permit application submittal. *Id.* at 15. We disagree that the evaluation was unreasonable. The agency points out that it assigned Bhate’s quotation a weakness because the protester did not provide a recommended timeline or a plan for rework in the event of an error. COS at 11. It further stated that Bhate failed to provide a plan for what it would do if the permits were returned and needed to be reworked. *Id.* Given these omissions, the agency concluded that there was a performance risk. Bhate does not challenge these conclusions; rather, its protest simply included excerpts from its quotation without any analysis, essentially asking us to conduct a reevaluation of the cited material. See Comments at 16. The role of our Office is to review any identified errors in the evaluation, not to conduct a reevaluation. See *Platinum Bus. Servs. LLC, supra*.

In its second challenge to the agency’s evaluation of its quotation under the quality control plan subfactor, Bhate argues that its quotation should have received a higher rating due to its success on past projects. Comments at 16. In support of this argument, Bhate provided an interim rating from the contractor performance assessment reporting system (CPARS) that, according to Bhate, should have resulted in its quotation receiving a higher adjectival rating. *Id.* We have no basis to sustain this protest ground. As the agency points out, a vendor’s disagreement with the agency’s evaluation, without more, does not provide a basis to sustain a protest. Agency Resp. to Comments at 6. Here, Bhate does not identify any error in the evaluation, nor does it allege that the agency failed to consider this interim CPARS report; rather, it argues that the agency should have assigned its quotation a higher rating under this factor. See Comments at 16. This disagreement over the adjectival rating, without more, does not

provide a basis to sustain a protest. See *Platinum Bus. Servs. LLC, supra*. Accordingly, this protest ground is denied.

Challenges to the Evaluation of Trinity's Quotation under the Technical Factor

Bhate also challenges the agency's evaluation of Trinity's quotation under the technical approach, work plan, and quality control plan subfactors, arguing that the evaluation was unreasonable and reflected disparate treatment. Supp. Protest at 10-12. As an initial matter, when a protester alleges disparate treatment in an evaluation, it must show the differences in evaluation did not stem from differences between the quotations. *Battelle Memorial Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 5-6.

Technical approach subfactor

Bhate first argues that the agency engaged in disparate treatment when it assigned Trinity's quotation a strength under the technical approach subfactor for its discussion of each requirement, but failed to provide Bhate's quotation a strength for the same discussion. Supp. Protest at 10-11. The agency responds that in alleging unequal treatment, Bhate "cherry-picked" one aspect of the agency's evaluation of Trinity's quotation and ignored the rest.⁸ Supp. MOL at 3. We conclude that Bhate has failed to demonstrate that the differences in the evaluation did not stem from differences between the quotations.

As the agency points out, there was more detail in the agency's evaluation of Trinity's quotation than the single excerpt cited by Bhate. See Supp. MOL at 3. For instance, the evaluators explained that Trinity's quotation received strengths for "describing specific measures they will take to implement the requirements." AR, Tab 13, Corrective Action Technical Evaluation at 5. The evaluators specifically noted that Trinity's quotation provided, among other things, experience with "cost effective waste management strategies" and demonstrated the ability to "navigat[e] supply chain and pricing uncertainty" that would reduce the risk of unsuccessful performance. *Id.* Bhate does not address these specific areas, nor does Bhate demonstrate where its quotation provided these same features. Accordingly, we have no basis to conclude the agency engaged in disparate treatment.

In its next challenge to the evaluation of Trinity's quotation under the technical approach subfactor, Bhate argues that the agency assessed strengths that are unsupported by Trinity's technical quotation. Supp. Protest at 11. Specifically, Bhate contends that in assigning Trinity's quotation a strength for its proposed review of container areas, the agency unreasonably "extrapolated" that this review would result in benefits in the form

⁸ The agency contends that Bhate "cherry-picked" the evaluators' statement that Trinity's quotation discussed the requirements in "sections C1-1 through C1-5 of the quote." Supp. Memorandum of Law (MOL) at 3; see *also* AR, Tab 13, Corrective Action Technical Evaluation at 5.

of field investigations, field surveys, and subject-matter expert level of understanding. *Id.* In other words, Bhate contends that the agency read into the quotation features that were not actually present. *See id.* The agency responds Bhate's argument is factually inaccurate as portions of Trinity's quotation directly support the agency's conclusions. Supp. MOL at 5.

We have no basis to object to the agency's evaluation. As the agency points out, other areas of Trinity's quotation formed the basis for the conclusion that Trinity would perform site visits and field surveys, which would, in turn, lead to a subject-matter expert level of understanding. *Id.* For instance, Trinity's quotation expressly stated that it would take the information it gathered from field visits/surveys and use it to create detailed plans and diagrams for the installation personnel. AR, Tab 17, Trinity Technical Volume at 26. Based on our review of the record, we are not persuaded that the agency unreasonably extrapolated unproposed benefits from Trinity's proposed review of container areas and read into Trinity's quotation features that were never proposed. Instead, the agency reviewed features contained in Trinity's quotation and concluded they were advantageous to the agency.

Work plan subfactor

Bhate also challenges the agency's evaluation of Trinity's quotation under the work plan subfactor, arguing the agency applied unstated evaluation criteria and engaged in disparate treatment. Supp. Protest at 11-12. First, Bhate argues that the agency engaged in disparate treatment when it concluded that Trinity's program manager's communication with the contracting officer's representative was a strength, but that Bhate's program manager's communication with the contracting officer's representative was a risk. *Id.* at 11. The agency responds that there was no disparate treatment because the quotations were "substantively distinguishable." Supp. MOL at 8.

The record supports the agency's position that the quotations were distinct in this area. In evaluating Bhate's quotation under the work plan subfactor, the agency explained that it had concerns because the "communication lines [were] not clear" due to inconsistencies within the quotation. AR, Tab 13, Corrective Action SSDD at 2. For instance, the agency found that Bhate's quotation did not clearly propose an onsite manager who would communicate directly with the contracting officer's representative. *Id.* Contrary to Bhate's position, the agency did not determine that communication between the program manager and the contracting officer's representative was inherently a risk; instead, it concluded that Bhate's quotation failed to clearly identify an onsite program manager who would be responsible for this communication. *Id.* Conversely, the agency considered Trinity's approach a strength because Trinity "clearly stated" that it would have an onsite project manager who would be directly responsible for communication with the contracting officer's representative. Bhate's protest ground fails to address the difference in these findings and thus, fails to demonstrate disparate treatment.

Bhate next argues that it was unreasonable for the agency to place “great emphasis” on the fact that Trinity’s project manager was onsite. Supp. Protest at 11. According to Bhate, the agency applied unstated evaluation criteria here because the solicitation did not include any preference for onsite project managers over offsite project managers. *Id.* Bhate contends that the agency had no basis for valuing Trinity’s onsite manager and assigning risk to Bhate’s offsite manager. *Id.* The agency explains that the risk associated with Bhate’s quotation under this subfactor stemmed not simply from Bhate’s failure to provide an onsite manager; rather, it stemmed from the potential issues that could arise due to a lag in communication with an offsite manager. Supp. MOL at 9. We find the agency’s explanation reasonable. Although the agency references Bhate’s failure to provide an onsite project manager, it did not take issue with the lack of an onsite manager alone. Instead, the weakness in the quotation arose from the effect that could arise, namely the potential for miscommunication. Accordingly, we have no basis to conclude that the agency applied unstated evaluation criteria here.

In its final challenge to the agency’s evaluation of Trinity’s quotation under the work plan subfactor, Bhate argues that the agency engaged in disparate treatment when it assigned Trinity’s quotation a strength for its tracking system but did not provide Bhate a strength for its tracking system. We have no basis to sustain this protest ground because, as the agency points out, it did assign Bhate’s quotation a strength for its tracking system. See AR, Tab 13, Corrective Action Technical Evaluation at 2-3 (stating that Bhate’s proposed “tracking work” was beneficial as it would “streamline the management of permit and plan updates”). Accordingly, this protest ground is denied.

Quality control plan subfactor

Bhate next challenges the agency’s evaluation of Trinity’s quotation under the quality control plan subfactor, arguing that the agency engaged in disparate treatment when it concluded that Trinity’s quotation contained a detailed plan for quality control for permit renewals but did not give Bhate’s quotation the “same positive evaluation.” Comments at 17. In response, the agency maintains that it treated the vendors equally and that the differences in the evaluation stemmed from differences in the quotations. Agency Resp. to Comments at 6-7.

Based on the record, we have no basis to sustain this protest ground. Although Bhate points out various aspects of its quotation to support its assertion that its quotation deserved a higher rating under this subfactor, it does not allege that the agency failed to consider these features. Comments at 17. Instead, Bhate disagrees with the agency’s valuation of these features, which as discussed above, does not provide a basis to sustain a protest. Additionally, the agency explains that it did treat vendors equally and that Bhate’s quotation was not as advantageous as Trinity’s quotation under this subfactor. Agency Resp. to Comments at 7. For instance, Bhate’s quotation included “no plan” for what it would do if permits were returned and needed to be reworked, which would increase performance risk. *Id.*; COS at 11. Trinity’s quotation, in contrast, provided a timeline that allowed enough time for the resolution of errors. COS at 11.

Due to the differences in the quotations, there is no evidence that disparate treatment occurred here.

Challenge to Evaluation of Trinity's Past Performance

In its final challenge to the evaluation of Trinity's quotation, Bhate argues that the agency unreasonably evaluated Trinity's past performance. Comments at 17-18. Specifically, Bhate contends that (1) the past performance references submitted by Trinity were not of a similar scope, magnitude, and complexity; (2) the agency failed to confirm whether the key personnel who worked on the prior efforts referenced in Trinity's quotation would perform the same roles for the current requirement; (3) the agency unreasonably credited Trinity for the past performance of its teaming partners despite Trinity not submitting any past performance information for these entities; and (4) the agency unreasonably conflated experience with past performance when evaluating Trinity's past performance reference for a Department of Defense installation in Florida. *Id.* at 18.

Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations. *PricewaterhouseCoopers Public Sector, LLP*, B-415504, B-415504.2, Jan. 18, 2018, 2018 CPD ¶ 35 at 10-11. An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of a vendor's performance history, is a matter of discretion which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *Id.*

Regarding the protester's first challenge, although Bhate identifies specific areas of Trinity's individual past performance references that it believes should make those references irrelevant, the past performance evaluation makes clear that it was not any individual reference that warranted Trinity receiving a rating of high confidence/very relevant. See AR, Tab 13, Corrective Action Technical Evaluation at 9. Instead, the evaluation notes that "[a] combination of these three examples" resulted in the high confidence/very relevant rating. *Id.* The agency noted that some of the past performance references were not of the same size, *id.*, but ultimately concluded that the references demonstrated a "high-level of client satisfaction" and, as a whole, covered the "range of activities" in the solicitation. *Id.* Bhate's disagreement with the agency's valuation of these references does not provide our Office a basis to sustain this protest ground.

In response to Bhate's argument that the agency failed to consider whether the personnel referenced in the prior projects would work in the same role on the current effort, the agency points out that it was not required to confirm that the roles would be the same. Agency Resp. to Comments at 8. In other words, the agency argues that we should deny this protest ground because Bhate provides no basis for its assertion that key personnel must work in the same role for the performance to be considered relevant; instead, the protester created this requirement on its own. We agree with the

agency. We further note that our decisions make clear that an agency may appropriately consider the experience of key personnel who performed key roles on contracts submitted as past performance references. *Divakar Techs., Inc.*, B-402026, Dec. 2, 2009, 2009 CPD ¶ 247 at 5. There is no requirement that their roles under the two contracts be identical. This protest ground is therefore denied.

Similarly, we deny Bhate's contention that the agency unreasonably credited Trinity for the experience of its teaming partners despite Trinity not submitting any past performance information for these entities. As the agency points out, this argument is factually inaccurate as Trinity did, in fact, submit a past performance reference for its subcontractors. Agency Resp. to Comments at 9.

In response to Bhate's argument that the agency unreasonably conflated experience with past performance, the agency explains that Bhate's argument is based on a single statement made by the evaluators that Trinity's experience at Department of Defense installations "is high." See AR, Tab 13, Corrective Action Technical Evaluation at 9. The agency argues that Bhate takes this statement out of context, and that, when read in proper context, it is clear that the evaluators cited experience in connection with the relevancy of Trinity's past performance reference. Resp. to Comments at 10. According to the agency, Bhate makes a distinction that "has no practical difference when properly placed in context." We agree. While the first sentence of the past performance evaluation of Trinity's quotation references experience, it clearly does so in the context of scope and relevance. See AR, Tab 13, Corrective Action Technical Evaluation at 9. For instance, the evaluation provided that "Trinity's past performance summary . . . demonstrates relevant experience of a similar scope." The evaluators continued to describe the scope and overall relevance of Trinity's past performance references, explaining that the "combination of these three examples indicate[d] [that] Trinity [met] the confidence and relevance criteria for past performance." *Id.* Therefore, this protest ground is denied.

Challenge to the Agency's Failure to Resolve an Apparent Conflict of Interest

Bhate next argues that the agency unreasonably failed to address Bhate's claim that the agency's compliance chief at Eglin Air Force Base had a conflict of interest arising from Trinity's employment of his former spouse as a client service manager. Protest at 7. The agency argues that it conducted a reasonable inquiry into the protester's allegations and concluded that no conflict of interest existed. MOL at 8.

The identification of conflicts of interest is a fact-specific inquiry that requires the exercise of considerable discretion. *Guident Techs., Inc.*, B-405112.3, June 4, 2012, 2012 CPD ¶ 166 at 7. A protester must identify hard facts that indicate the existence or potential existence of a conflict; mere inference or suspicion of an actual or potential conflict is not enough. *TeleCommunication Sys. Inc.*, B-404496.3, Oct. 26, 2011, 2011 CPD ¶ 229 at 3-4. We review conflict of interest investigations for reasonableness, and where an agency meaningfully considers whether a significant conflict of interest exists,

we will not substitute our judgment for the agency's absent clear evidence that the agency's conclusion is unreasonable. *TISTA Sci. & Tech. Corp., Inc.*, B-408175.4, Dec. 30, 2013, 2014 CPD ¶ 17 at 6.

As relevant here, Bhate emailed the agency on May 16 and stated that "within the last 14 days, Bhate became aware of a potential personal conflict of interest between an Air Force employee and a Trinity employee." AR, Tab 11, Bhate's Email Regarding a Potential Conflict of Interest at 1. Bhate voiced concern that the agency's compliance chief "may have been involved in preparing the government's scope of work" and that he and his former spouse "may still maintain a close, familial relationship" with ongoing financial ties. *Id.* Bhate explained that it wanted to ensure that this matter was timely reported for the agency's consideration prior to the reevaluation of quotations. *Id.*

In response to Bhate's email, the contracting officer asked its compliance chief a series of questions concerning his relationship with Trinity's employee. See AR, Tab 12, Agency Inquiry to Potential Conflict of Interest at 1-2. While the compliance chief confirmed that the Trinity employee was his former spouse, he explained that the relationship had no bearing on this procurement. See *id.* For instance, when the contracting officer asked the compliance chief whether he had any conversations with his former spouse about the performance work statement (PWS) for this procurement, he stated that they did not discuss it. *Id.* at 2. The compliance chief further stated that he did not discuss the evaluation with the Trinity employee after quotations were received and did not think that there was any possibility that his day-to-day conversation with the employee afforded Trinity any technical advantage. *Id.* Finally, when asked by the agency whether he had any "undue influence on the creation of the [PWS] for this requirement," the compliance chief stated that he did not. *Id.* These questions indicate that the agency considered Bhate's concerns regarding a potential conflict of interest and concluded that none existed.⁹

Although the agency concluded that there was no conflict of interest, Bhate argues that the relationship between the compliance chief and the Trinity employee "create[d] at least the appearance of an impropriety." Comments at 20. Bhate contends that this appearance of an impropriety is "exacerbated" by the evaluators highlighting the onsite presence of Trinity's project manager, who was also the former spouse of the agency's compliance chief. *Id.* We note that the investigation concluded that the agency's compliance chief was not involved in the evaluation or source selection team; accordingly, he could not have had any role in assigning a strength to Trinity's quotation for its proposed use of an onsite project manager. Moreover, members from the technical evaluation board confirmed that the agency developed the PWS using a template from the agency's headquarters. AR, Tab 12, Agency Inquiry to Potential

⁹ Additionally, the contracting officer interviewed not only the compliance chief, but also interviewed members of the technical evaluation board. See AR, Tab 12, Agency Inquiry to Potential Conflict of Interest at 4. The response from these individuals confirmed that the relationship between the compliance chief and the Trinity employee influenced neither the PWS nor the evaluation for this procurement. *Id.*

Conflict of Interest at 4. The contracting officer thus had a reasonable basis to conclude that the PWS was not drafted in a way that favored any vendor, including Trinity. Accordingly, we have no basis to sustain this protest ground.

Challenge to the Agency's Best-Value Tradeoff Decision

Finally, Bhate argues that the agency's best-value tradeoff decision was unreasonable due to the purported evaluation errors addressed above. Comments at 19. Bhate argues that even if there were no evaluation errors, the tradeoff was still unreasonable because Bhate's quotation proposed a lower price. *Id.*

As an initial matter, source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and price evaluation results, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. *Integrity Management Consulting, Inc.*, B-418776.5, June 22, 2021, 2021 CPD ¶ 245 at 10. In reviewing an agency's source selection decision, we examine the record to determine if it was reasonable and consistent with the evaluation criteria and applicable procurement statutes and regulations. *Id.*

As for the first prong of Bhate's challenge to the best-value tradeoff decision, we note that it is derivative of the protester's earlier protest grounds that we have either dismissed or denied. Accordingly, we deny this challenge as it presupposes unproven agency errors and thus, does not establish an independent basis of protest. With regard to the remaining portion of its challenge, the solicitation provided that the non-price factors, when combined, were significantly more important than price. RFQ at 37. In conducting the tradeoff, the agency acknowledged the price difference between the two quotations but concluded that Trinity's quotation was worth the premium given its technical advantages. Accordingly, we have no basis to sustain this ground of protest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel