



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: The Mission Essential Group, LLC

File: B-423053; B-423053.2

Date: January 15, 2025

Craig A. Holman, Esq., Kara L. Daniels, Esq., and Thomas A. Pettit, Esq., Arnold & Porter Kaye Scholer LLP, for the protester.
Sharon E. Chamberlain, Esq., Mary Upton Shirley, Esq., and Ronald M. LaRocca, Esq., National Security Agency, for the agency.
Raymond Richards, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the evaluation of the protester's proposal under the management factor and ability to staff factor is denied where the record reflects a reasonable evaluation conducted in accordance with the terms of the solicitation.
 2. Protest challenging the agency's decision to exclude the protester's proposal from the competitive range is denied where the record supports the decision as reasonable.
 3. Remaining technical and cost evaluation challenges are dismissed where the record demonstrates no possibility of competitive prejudice.
 4. Allegations of organizational and personal conflicts of interest are dismissed because the protester was reasonably excluded from the competitive range and therefore is not an interested party to maintain such protest grounds.
-

DECISION

The Mission Essential Group, LLC (Mission Essential), of New Albany, Ohio, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. H98230-23-R-0003, issued by the National Security Agency (NSA) for signals intelligence services. The protester challenges the agency's evaluation of its proposal and competitive range determination and raises allegations of organizational and personal conflicts of interest.

We deny the protest.

BACKGROUND

The NSA issued the RFP on March 3, 2023, under the procedures of Federal Acquisition Regulation (FAR) part 15, seeking proposals for active and passive signals intelligence in support of combatant commands and NSA target offices of primary interest. Agency Report (AR), Tab 3, RFP at 1; Contracting Officer's Statement (COS) at 1. The procurement is referred to as LUCIDLOBSTER. COS at 1.

The RFP contemplated the award of a single cost-plus-fixed-fee contract under which technical task orders (TTOs) would be issued on a level-of-effort basis. *Id.* To evaluate proposals, the agency would conduct a best-value tradeoff considering the following evaluation factors: management; ability to staff; small business participation; and cost. AR, Tab 11, Proposal Evaluation Criteria (PEC) at 3. The RFP explained that the management factor was considered more important than the ability to staff factor. *Id.* at 6. When combined, the management factor and the ability to staff factor were considered significantly more important than cost. *Id.* The small business participation factor would be rated on an acceptable/unacceptable basis. *Id.*

The management factor was composed of the following four subfactors: staffing; training; innovation; and corporate plan. *Id.* at 7. With the exception of the corporate plan subfactor, all subfactors were considered to be of equal importance. *Id.* Regarding the corporate plan subfactor, it would be rated on an acceptable/unacceptable basis and proposals were required to earn a rating of acceptable to be considered for award.¹ *Id.*

The agency received multiple proposals by the April 18 deadline, including a proposal from Mission Essential. COS at 1. Over the next several months, a source selection evaluation board evaluated the proposals. *Id.* at 5. Mission essential's evaluation results are as follows:²

¹ Under the management factor, staffing subfactor, training subfactor, innovation subfactor, and ability to staff factor, proposals could be rated as outstanding, good, acceptable, marginal, or unacceptable. AR, Tab 11, PEC at 4-5.

² We have omitted the evaluation results of the successful offerors because those results are not relevant to our decision. We note that there were [DELETED] proposals accepted into the competitive range and that all [DELETED] of those proposals were assessed with higher probable costs than Mission Essential. See AR, Tab 39, Competitive Range Determination Document (CRDD) at 3.

	Mission Essential
Management	Unacceptable
Staffing	Marginal
Training	Acceptable
Innovation	Unacceptable
Corporate Plan	Unacceptable
Ability to Staff	Marginal
Small Business Participation	Acceptable
Proposed Cost	\$407,289,674
Probable Cost	\$407,691,849

AR, Tab 39, CRDD at 3.

Following the evaluation of proposals, the agency established a competitive range. COS at 6. On August 29, Mission Essential learned that its proposal was excluded from the competitive range. AR, Tab 40, Exclusion Notice at 1. The exclusion notice included an invitation for a debriefing which Mission Essential timely requested. *Id.*; COS at 6. The debriefing concluded on September 27. *Id.* On October 7, Mission Essential timely filed the instant protest with our Office.

DISCUSSION

Mission Essential challenges the technical and cost evaluation of its proposal and the agency's decision to exclude its proposal from the competitive range, argues that the agency conducted a disparate evaluation, and raises allegations of organizational and personal conflicts of interest. The NSA defends the LUCIDLOBSTER procurement on all grounds.

As discussed below, we deny the protest. We first address the challenges to the agency's evaluation of Mission Essential's proposal under the management factor and the ability to staff factor and conclude that the evaluation was conducted reasonably and in accordance with the solicitation. Next, we address the agency's competitive range determination and explain that we find it unobjectionable. Following that, we address the remaining technical and cost evaluation challenges, to include the allegations of disparate treatment, and explain that even if the agency erred in the ways argued by Mission Essential, there is no possibility of competitive prejudice. Finally, we explain that because Mission Essential was reasonably excluded from the competitive range, it no longer has a direct economic interest in the LUCIDLOBSTER procurement and is therefore not an interested party to raise those allegations.³

³ Mission Essential raises other collateral arguments. Although our decision does not address each argument raised, we have reviewed them all and find no basis to sustain the protest.

Where a protester challenges an agency's evaluation of an offeror's proposal, and its decision to exclude a proposal from a competitive range, we first review the propriety of the agency's evaluation of the proposal, and then turn to the competitive range determination. *Delta Risk, LLC*, B-416420, Aug. 24, 2018, 2018 CPD ¶ 305 at 9. Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. *Straughan Env'tl., Inc.*, B-411650 *et al.*, Sept. 18, 2015, 2015 CPD ¶ 287 at 5. In this regard, a protester's disagreement with an agency's evaluation and competitive range judgment, without more, does not establish that the agency acted unreasonably. *CMC & Maint., Inc.*, B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2.

Technical Evaluation Challenges

As shown above, Mission Essential earned a rating of unacceptable under the management factor and a rating of marginal under the ability to staff factor. AR, Tab 39, CRDD at 3. Below, we discuss Mission Essential's protest grounds under the management factor and the ability to staff factor. In short, we find the challenges amount to disagreement with reasonable evaluation conclusions and thus do not provide a basis to sustain the protest.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals nor substitute our judgment for that of the agency as the evaluation of proposals is a matter within the agency's discretion. *Straughan Env'tl., Inc.*, *supra*. Rather, we will review the record to assess whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and with applicable procurement statutes and regulations. *Id.* Further, it is an offeror's responsibility to submit a well-written proposal with adequately detailed information that clearly demonstrates compliance with the solicitation's requirements. *Tribologik Corp.*, B-417532, Aug. 2, 2019, 2019 CPD ¶ 284 at 11. Where an offeror fails to carry this responsibility, it risks having its proposal evaluated unfavorably. *Id.*

Management Factor

As discussed above, the management factor was considered the most important evaluation factor and was composed of four subfactors. AR, Tab 11, PEC at 6-7. Mission Essential's overall rating of unacceptable under the management factor resulted from ratings of unacceptable for the innovation and corporate plan subfactors, a rating of marginal for the staffing subfactor, and a rating of acceptable for the training subfactor. The protester challenges the agency's evaluation of its proposal under each subfactor, arguing that absent the allegedly unreasonable findings, its proposal would have earned a higher adjectival rating and a spot in the competitive range. Protest at 20; Comments & Supp. Protest at 8.

Below, we address Mission Essential's challenges to the evaluation findings under the innovation subfactor, corporate plan subfactor, and staffing subfactor, and conclude that

none provide a basis to sustain the protest. The record reflects that Mission Essential's proposal was reasonably assessed with two evaluation findings under the most important evaluation factor that would independently render its proposal ineligible for award, along with a significant weakness indicating that the proposal carried an appreciable risk of unsuccessful performance. Based on the terms of the solicitation, we conclude that these results reasonably support the overall rating of unacceptable under the management factor.⁴

Innovation Subfactor

As relevant to the protest, under the innovation subfactor the solicitation required offerors to describe a plan "to integrate emerging and developed tradecraft capabilities, including innovation, automation, and other emerging technology applications, into the senior mentor work role while executing tasks in accordance with section 4.1.2 of the Statement of Work [(SOW)]."⁵ AR, Tab 10, Proposal Preparation Instructions (PPI) at 7-8. In turn, the agency was to evaluate the extent that offerors' plans addressed this instruction. AR, Tab 11, PEC at 8.

Mission Essential's proposal earned a rating of unacceptable under the innovation subfactor. AR, Tab 34, Management Factor Consensus Report (MFCR) at 12-14. The unacceptable rating resulted from a deficiency assessed for failing to include the required plan for integrating emerging and developed tradecraft capabilities into the senior mentor position.⁶ *Id.* at 12.

In evaluating Mission Essential's proposal for the required plan, the agency noted areas of the proposal that addressed the senior mentor role but determined that those aspects of the proposal focused "on improving the training program, not *the integration of*

⁴ Mission Essential also challenges a weakness assessed to its proposal under the training subfactor where its proposal was rated as acceptable. We find no basis to sustain the challenge because the protester fails to demonstrate competitive prejudice. Competitive prejudice is an essential element of every viable protest; our Office will not sustain a protest where a protester fails to demonstrate prejudice. *Zolon PCS, LLC*, B-417930, Nov. 18, 2019, 2019 CPD ¶ 389 at 3 n.2. As discussed in the body of our decision, we find reasonable the adverse evaluation findings assessed under the other three subfactors, which render the protester's proposal unacceptable. In light of those other flaws, there is no possibility of competitive prejudice in connection with the challenged weakness.

⁵ Section 4.1.2 of the SOW addressed the requirements of the senior mentor position. AR, Tab 4, SOW at 4-5.

⁶ The solicitation defined "deficiency" as a "material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level." AR, Tab 11, PEC at 6. The solicitation explained that "[t]o receive consideration for award, an Offeror's proposal must not contain any deficiencies." *Id.* at 3.

emerging and developed tradecraft capabilities into the Senior Mentor work role specifically.” *Id.* at 14 (emphasis supplied). As a result, the agency concluded that Mission Essential’s proposal “does not include any plan to integrate emerging and developed tradecraft into the Senior Mentor work role through innovation, automation, and other emerging technology applications.” *Id.* Accordingly, the agency assessed a deficiency to the protester’s proposal because it did not meet the requirements of the solicitation and presented an unacceptably high level of risk of unsuccessful performance. *Id.*

Mission Essential challenges the deficiency in two primary ways. Protest at 32-35; Comments & Supp. Protest at 29-33. First, it asserts that in assessing the deficiency, the NSA deviated from the terms of the solicitation by critiquing its proposal for discussing the training role of the senior mentor. *Id.* at 32-33; Comments & Supp. Protest at 32-33. In this regard, the protester contends that the agency’s critique “ignores that the training program is the core of the Senior Mentor role” and that the “Senior Mentor’s work role is primar[ily] one of training.” Protest at 33; Comments & Supp. Protest at 30. Second, Mission Essential argues that its proposal included the required information. For example, Mission Essential offers the following descriptions of its proposal, which, it argues demonstrate the required plan:

Mission Essential proposes to use the [DELETED] as its model to maintain ‘well trained instructors capable of delivering quality training in various formats and adapting to ever changing mission priorities.’

* * * * *

Mission Essential propose[d] to both innovate the teaching process and have the Senior Mentors stay current on emerging and develop[ing] tradecraft.

* * * * *

[Mission Essential’s] [DELETED] bears responsibility and oversight for ‘integrating emerging and develop[ing] tradecraft capabilities into the Senior Mentor role’ and responsibility ‘to implement new approaches and identify ways for tradecraft capabilities to improve the quality and effectiveness of every operator.’

Comments & Supp. Protest at 31 (citing AR, Tab 27, Management Proposal at 76, 81-84 (training subfactor section of proposal), 105-106 (innovation subfactor section of proposal)).⁷

The agency defends its evaluation and argues that this protest ground amounts to disagreement with reasonable evaluation judgments. Memorandum of Law (MOL) at 18-21. The contracting officer explains that Mission Essential’s proposed approach

⁷ Citations to Mission Essential’s management proposal are to the Adobe PDF page numbers.

for the innovation subfactor was relevant to the solicitation's training subfactor but that it failed to adequately address the requirements of the innovation subfactor. COS at 9. In other words, the contracting officer states that Mission Essential's proposal addresses the wrong solicitation requirements in its response to the innovation subfactor. *Id.* According to the agency, Mission Essential's focus on "Senior Mentors' teaching and training skills" covered an important part of the agency's requirement; however, it was not the portion of the requirement being evaluated under the innovation subfactor. MOL at 20.

Based on our review of the record, we find nothing objectionable about the NSA's evaluation conclusions here. First, we are unpersuaded by the protester's argument that because the senior mentor role involves training, the agency could not critique its proposal for discussing training aspects of its senior mentor approach under the innovation subfactor. See *e.g.*, Protest at 33. The agency has adequately explained that training-related aspects of the technical approach were to be addressed in response to the training subfactor, not the innovation subfactor, and that the innovation subfactor carried its own specific requirements, notably, a requirement to present a plan that addressed integrating emerging and developed tradecraft into the senior mentor role. See AR, Tab 10, PPI at 7-8.

Next, we agree with the NSA that the solicitation asked for a specific type of plan which Mission Essential failed to provide. While Mission Essential's proposal discussed the role of the senior mentor, we agree with the agency that its proposal did not clearly provide a response to the relevant requirement of the innovation subfactor.

In this respect, the solicitation required offerors to propose a plan "to integrate emerging and developed tradecraft capabilities, including innovation, automation, and other emerging technology applications, into the senior mentor work role[.]" *Id.* As highlighted by the examples provided by Mission Essential itself, we agree with the agency that the proposal did not clearly articulate the required plan. Rather, the proposal makes general statements of compliance and explains various training and testing approaches but does not articulate any details for the required plan. See AR, Tab 27, Management Proposal at 105-110. For example, Mission Essential's proposal stated that the [DELETED] bears responsibility and oversight for "integrating emerging and developing tradecraft capabilities into the Senior Mentor work role" but does not provide any additional detail on how this would occur. See *id.* at 105-06. While Mission Essential may disagree with the NSA's assessment of its proposal, such disagreement does not form a basis to sustain the protest. It was Mission Essential's responsibility to submit a well-written proposal.

In sum, we find reasonable the NSA's evaluation of Mission Essential's proposal under the innovation subfactor. See AR, Tab 11, PEC at 8 (agency will evaluate innovation plans); *id.* at 6 (deficiency means a material failure to meet a requirement); AR, Tab 34, MFCR at 12 (finding that the proposal did not include the required plan). Thus, the record reflects that Mission Essential's proposal was reasonably assessed with a deficiency which provided an independent basis to find the proposal unawardable. See

AR, Tab 11, PEC at 3 (to be considered for award, proposal must not contain any deficiencies). This protest ground is denied.

Corporate Plan Subfactor

As relevant to the protest, under the corporate plan subfactor, proposals were required to include a “Mission Essential Services Plan in accordance with [Defense Federal Acquisition Regulation Supplement (DFARS) provision] 252.237-7024.” AR, Tab 10, PPI at 8. Proposals would be evaluated on an acceptable/unacceptable basis considering whether the offeror submitted a plan consistent with the DFARS. AR, Tab 11, PEC at 9. The solicitation explained that proposals were required to be rated as acceptable to be considered for award. *Id.* at 7.

DFARS provision 252.237-7024 requires offerors to provide a written plan describing how they will continue to perform certain essential services during periods of crisis. DFARS provision 252.237-7024(b). Relevant to the protest, the DFARS provision requires offerors to address, at a minimum, the following items:

Challenges associated with maintaining essential contractor services during an extended event, such as a pandemic that occurs in repeated waves;

The time lapse associated with the initiation of the acquisition of essential personnel and resources and their actual availability on site; [and]

The components, processes, and requirements for the identification, training, and preparedness of personnel who are capable of relocating to alternate facilities or performing work from home[.]

Id. 252.237-7024(b)(2)(i)-(iii) (our decision refers to these DFARS requirements as the first relevant DFARS requirement, the second relevant DFARS requirement, and the third relevant DFARS requirement, respectively).

Mission Essential’s proposal was rated as unacceptable under the corporate plan subfactor. AR, Tab 34, MFCR at 14. The agency found that Mission Essential’s proposal failed to include a plan addressing the three DFARS requirements listed above and thus failed to meet the requirements of the solicitation. *Id.*

The agency’s evaluation included the following adverse findings. Regarding the first relevant DFARS requirement, the agency found that Mission Essential’s proposal “fail[ed] to address any specific challenges or provide an actual plan[.]” *Id.* at 17 (citing AR, Tab 27, Management Proposal at 118). Regarding the second relevant DFARS requirement, the agency found that Mission Essential’s proposal failed to address potential time lapses associated with the initiation of the mission essential services plan. *Id.* (citing AR, Tab 27, Management Proposal at 118). Regarding the third relevant DFARS requirement, the agency found that Mission Essential’s proposal failed to

address “components, processes, and requirements for preparedness of personnel” who are capable of relocating or working from home. *Id.* (citing AR, Tab 27, Management Proposal at 119).

Mission Essential argues that the NSA’s evaluation was unreasonable. Protest at 36-39; Comments & Supp. Protest at 35-43. According to the protester, its proposal sufficiently addressed the relevant DFARS requirements. *E.g.*, Protest at 36 (“Over the course of several pages, Mission Essential’s plan addresses each of the subjects called out in DFARS 252.237-7024”). Mission Essential also argues that the agency was required to hold discussions on this issue prior to excluding it from the competition. Protest at 38-39. We first address the evaluation challenge, and then explain that there was no requirement to hold discussions.

Mission Essential argues that its proposal addressed the first relevant DFARS requirement by explaining “that as soon as [DELETED] arises, the [DELETED] ‘will implement the Continuation of Essential Contract Services plan’ and ‘discuss with the Government Team Mission Essential’s planning for and/or any challenges associated with maintaining essential contractor services during an extended crisis event[.]’” Protest at 36 (citing AR, Tab 27, Management Proposal at 118). Mission Essential also asserts that its proposal provided detail explaining how employees could be called to work and report for duty at any time during any crisis. *Id.* at 37.

The protester also maintains that its proposal addressed the second relevant DFARS requirement by explaining “how its [DELETED] Team monitors and administers initial training for both [DELETED] and [DELETED] events[,]” how it validates [DELETED] information and performs [DELETED] drills, that it maintains a [DELETED] for continuity operations, and how supervisors organize employees. *Id.* at 37 (citing AR, Tab 27, Management Proposal at 118-121). Mission Essential also contends its proposal included a description of its [DELETED] system that ensures all personnel are notified of an emergency situation.⁸ *Id.* at 37-38.

⁸ Mission Essential’s initial protest did not specifically explain how its proposal addressed the third relevant DFARS requirement; rather the protester provided only general statements that its proposal “disproves each negative finding” and “addresses each of [the DFARS] subjects.” See Protest at 36-39. It was not until Mission Essential’s comments on the agency report that the protester provided a more specific response regarding the third relevant DFARS requirement, arguing that the DFARS did not require separate components, processes, and requirements for different events and that its proposal otherwise addressed how it would meet this requirement. See Comments & Supp. Protest at 42-43. We dismiss these arguments regarding the third relevant DFARS requirement as an untimely piecemeal presentation. 4 C.F.R. § 21.2(a)(2); *e.g.*, *Interactive Info. Sols., Inc.*, B-415126.2 *et al.*, Mar. 22, 2018, 2018 CPD ¶ 115 at 3 (“Our Office will dismiss a protester’s piecemeal presentation of arguments that could have been raised earlier in the protest process.”). Mission Essential learned of the agency’s evaluation under the corporate plan factor in its

(continued...)

The agency defends its evaluation as reasonable. MOL at 23-27. Regarding the first relevant DFARS requirement, the contracting officer explains that while Mission Essential's proposal acknowledged that its [DELETED] would plan for challenges, it did not address any specific challenges or provide an actual plan. COS at 10. Regarding the second relevant DFARS requirement, the contracting officer explains that Mission Essential's proposal described "the time lapse for notifying employees, not the time lapse associated with the initiation of the acquisition of essential personnel and their actual availability on site." *Id.* In other words, Mission Essential's proposal addressed the wrong thing and failed to provide the required response.

Based on our review of the record, we find the agency's evaluation reasonable, establishing another basis to find Mission Essential's proposal unawardable. AR, Tab 11, PEC at 7. With respect to the first relevant DFARS requirement, while Mission Essential's proposal explained how it would recall its personnel in the event of an emergency, the agency reasonably determined that this did not address or provide a plan for how it would maintain essential services during an extended event. Indeed, Mission Essential's argument that its proposal met this requirement in part by stating that it would "discuss with the Government Team Mission Essential's planning for and/or any challenges associated with maintaining essential contractor services during an extended crisis event" is unconvincing because this language merely restates the requirements of the DFARS and does not provide a plan or explanation.

With respect to the second relevant DFARS requirement, the agency reasonably concluded that the protester's focus on the various ways it would notify its employees of an emergency situation did not sufficiently address the time lapse between the notification and the on-site availability of those personnel, which is what the DFARS required.⁹ While Mission Essential may disagree with NSA's assessment of its proposal, such disagreement does not form a basis to sustain the protest. It was Mission Essential's responsibility to submit a well-written proposal. This protest ground is denied.

Mission Essential also argues that the agency was required to hold discussions on this issue prior to excluding it from the competition. Protest at 38-39; Comments & Supp. Protest at 36-37. As explained below, there is no legal requirement for the agency to hold discussions with Mission Essential in this scenario.

debriefing, including its finding that Mission Essential's proposal failed to address these three requirements. The protester therefore could have raised these arguments in its protest but did not do so. See AR, Tab 43, Resp. to Debriefing Questions at 5. Accordingly, we will not consider them.

⁹ Because we will not consider Mission Essential's piecemeal arguments regarding the third relevant DFARS requirement, we consider the agency's conclusion that Mission Essential's proposal did not address this requirement to be uncontested.

Mission Essential asserts that its corporate plan submitted for LUCIDLOBSTER is the same plan it submitted for a previous procurement--called BARKINGBADGER (which was canceled)--that sought the same services, and contends that the agency found the plan acceptable during the BARKINGBADGER competition. *Id.* at 38-39. The protester argues that because the agency previously informed Mission Essential during the BARKINGBADGER procurement that its corporate plan was acceptable, “it is unreasonable to exclude Mission Essential from the competitive range because the same [a]gency for the same work now deems that same plan unacceptable, without giving Mission Essential the opportunity for discussions.” Comments & Supp. Protest at 36.

We disagree with the protester. As Mission Essential itself points out, BARKINGBADGER and LUCIDLOBSTER are different procurements. See Protest at 10. There is no legal requirement--and the protester has not identified one--for an agency to hold discussions with an offeror in one procurement based on the evaluation of a proposal submitted in response to a separate procurement. FAR 15.306; *Cf. Cyberdata Techs., Inc.*, B-417084, Feb. 6, 2019, 2019 CPD ¶ 34 at 6 (rejecting allegation of improper discussions, noting that each procurement stands on its own and that action taken under a prior procurement is not necessarily relevant to the reasonableness of the action taken under the present procurement). This protest ground is denied.

Staffing Subfactor

As relevant to the protest, under the staffing subfactor proposals had to include a “plan that describes a credible, detailed timeline and appropriate processes, performance measures, and reporting mechanisms necessary to ensure full staffing and transition of TTO 1: NSA/[central security service] Georgia within 90 days of TTO award in accordance with sections 4.2.4.1 and 4.11 of the [SOW].” AR, Tab 10, PPI at 7. In turn, the agency was required to evaluate “[t]o what extent” the plan described the required components. AR, Tab 11, PEC at 7. Section 4.2.4.1 of the SOW provided details on initial staffing requirements, and SOW section 4.11 provided details on the transition period requirements.¹⁰ AR, Tab 4, SOW at 6, 8-9.

¹⁰ Specifically, SOW section 4.2.4.1 included the following relevant language: “The Contractor shall staff two (2) of the [NSA Georgia (NSAG)] Passive Senior Mentor positions and two (2) of the NSAG Active Senior Mentor positions within 30 days of TTO award. Those Senior Mentors shall hold the required instructor certifications and qualifications[.]” . . . “The Contractor shall staff all other initial positions . . . within 90 days of TTO award.” AR, Tab 4, SOW at 6. Under section 4.11 the SOW stated: “The Contractor shall develop and execute a Transition Plan for the first 90 days of contract performance. This plan shall specify how the Contractor will staff LUCIDLOBSTER to ensure mission continuity by day 90.” *Id.* at 8.

Mission Essential's proposal was rated as marginal under the staffing subfactor.¹¹ AR, Tab 34, MFCR at 4. This rating was based, in part, on a significant weakness assessed for the firm's proposed approach to staffing and transition of TTO 1.¹² *Id.* In assessing the significant weakness, the agency made the following three findings: (1) the proposal provided a transition timeline that addressed "milestones" but failed to provide "specific dates for staffing of the labor categories and detail on how the Offeror will apply these 'timelines' to its LUCIDLOBSTER staffing transition[;]" (2) the proposal failed to provide detail on how Mission Essential would "fill incumbent personnel into the Senior Mentor and Journeyman Operator-INDIA labor categories[;]" and (3) the proposal provided "processes and contemplate[d] performance measures and reporting mechanisms," but failed to provide detail on how Mission Essential would apply those processes "to timely staff the effort" and failed to "address the substance of the performance measures and reporting mechanisms." *Id.* at 4-5.

Mission Essential challenges each of the three findings. Protest at 23-29; Comments & Supp. Protest at 10-19. We have reviewed these challenges and find no basis to sustain the protest. Below, we discuss a representative sample and explain that we find the agency's evaluation reasonable and consistent with the terms of the solicitation.

Regarding the first finding supporting the agency's assignment of a significant weakness, Mission Essential argues that its proposal included the required timeline and therefore the agency's critique of its proposal was unreasonable. Protest at 23-26; Comments & Supp. Protest at 10-13. The protester first points to figure 3 of its proposal which described its proposed transition timeline and explains that this figure "illustrates that Mission Essential will fully staff each TTO between 30-[days] and 90-days of contract award[.]"¹³ Protest at 23 (referencing the figure at AR, Tab 34, Management Proposal at 26).

¹¹ A rating of marginal was defined as: "Proposal has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high." AR, Tab 11, PEC at 4.

¹² "Significant weakness" was defined as: "A flaw in the proposal that appreciably increases the risk of unsuccessful contract performance." AR, Tab 11, PEC at 6.

¹³ The referenced figure lists various action items such as "[DELETED] Confirmed," "[DELETED] Positions Confirmed," and "[DELETED] Interviews and [labor category (LCAT)] Mapping." See AR, Tab 27, Management Proposal at 26. The figure then displays when action items are proposed to occur in terms of broad timeframes (or "milestones," as stated by the agency) such as the proposal phase, pre-award phase, post-award phase, transition phase, and the delivery phase. *Id.* According to the figure, items set to occur before the transition phase would occur within 30 days of task order award and all items set to occur before the delivery phase would occur within 90 days of task order award. *Id.* For example, "[DELETED] Confirmed" displays as being complete during the proposal phase while "[DELETED] Interviews and LCAT Mapping" displays as occurring during proposal phase and into the post-award phase. *Id.*

The protester further argues that its proposal supplied the required staffing timeline by proposing an incumbent workforce to be in place within 90 days of task order award, and that its proposal makes this clear.¹⁴ Protest at 12-23; Comments & Supp. Protest at 12-13; see e.g., AR, Tab 27, Management Proposal at 27 (proposing “a unique staffing solution to sustain current operations without interruption and to ensure a successful transition to LUCIDLOBSTER for all labor categories on TTO 1 within 90 days of contract award.”). In sum, the protester contends that its proposal offered enough detail on its staffing timeline and that the agency’s assessment of a significant weakness was unreasonable.

The agency defends its evaluation, arguing that the solicitation called for a detailed timeline and Mission Essential’s proposal lacked detail. MOL at 7-13. The contracting officer opines that Mission Essential’s proposal “simply [did] not include a staffing timeline for the [required] labor categories, to include the [DELETED] Senior Mentors and the Journeyman Operators that require certifications prior to indoctrination on the contract.” COS at 7.

Addressing Mission Essential’s proposed incumbent utilization, the contracting officer states that the requirements for LUCIDLOBSTER are different than Mission Essential’s incumbent contract and therefore the mere fact that incumbent personnel will be utilized does not demonstrate that the required personnel will have the required qualifications by the required time. *Id.* In conclusion, the agency argues that Mission Essential failed to submit an adequately detailed proposal and that the evaluators reasonably assessed the proposal with a significant weakness for failing to supply enough detail. MOL at 12-13.

Based on our review of the record, we find the agency’s evaluation reasonable and consistent with the terms of the solicitation. As discussed above, the solicitation required proposals to include a “detailed timeline” for staffing TTO 1 within 90 days of task order award “in accordance with sections 4.2.4.1 and 4.11” or the SOW. AR, Tab 10, PPI at 7; AR, Tab 11, PEC at 7; AR, Tab 4, SOW at 6, 8-9. Section 4.2.4.1 of the SOW specifically mentioned staffing requirements for the program manager, passive and active senior mentors, journeyman operators, and “all other initial positions[.]” AR, Tab 4, SOW at 6.

To meet this requirement, Mission Essential’s proposal included a narrative describing an incumbent capture approach and included a transition timeline illustrated by figure 3,

¹⁴ Mission Essential further explains that figure 4 in its proposal detailed specific dates for hiring [DELETED] operators and argues that the [DELETED] hires combined with its incumbent capture approach demonstrates “full staffing of the TTO [No. 1] effort within 90 days of contract award.” Protest at 24; Comments & Supp. Protest at 16; AR, Tab 27, Management Proposal at 38. Based on our review, figure 4 does in fact detail specific dates for hiring [DELETED] operators. However, as discussed *infra.* at 14, we agree with the agency that the proposal lacks detail on the staffing and transition timeline for the positions specifically listed in the relevant SOW sections.

which displayed broad categories of action items occurring at broad intervals. AR, Tab 27, Management Proposal at 26-47. However, as noted by the agency, Mission Essential's proposal did not contain specific timeline information for staffing the specific positions listed in the SOW. See COS at 7. In our view, such detail was reasonably contemplated by the terms of the solicitation. AR, Tab 10, PPI at 7 (requiring detailed timeline); AR, Tab 11, PEC at 7 (agency will evaluate "[t]o what extent" the offeror proposed a detailed timeline; AR, Tab 4, SOW at 6, 8-9 (listing initial staffing and transition requirements). While Mission Essential's proposal included general information on its staffing approach, we find reasonable the agency's critique of the proposal for lacking detail. It was Mission Essential's responsibility to submit a well-written proposal. Accordingly, the protest ground is denied.

Ability to Staff Factor

Under the ability to staff factor, the agency assigned Mission Essential's proposal a rating of marginal. AR, Tab 35, Ability to Staff Consensus Report (ATSCR) at 1. As discussed in more detail below, this factor included an evaluation of proposed labor rates in comparison to a government estimate. AR, Tab 11, PEC at 5. Mission Essential raises a two-pronged challenge to the agency's evaluation: first, it argues that the evaluation contravenes the cost realism evaluation conducted under the cost factor; second, it argues that the evaluation was not conducted in accordance with the terms of the solicitation. Protest at 39-46; Comments & Supp. Protest at 43-53. We have reviewed these challenges and find no basis to sustain the protest.

The ability to staff factor required proposals to include information on proposed labor rates using one of two tables provided with the solicitation.¹⁵ AR, Tab 10, PPI at 8-9. In turn, the agency would evaluate proposed hourly labor rates by labor category for the base period of performance and the option periods. AR, Tab 11, PEC at 9. The evaluation would consider "to what extent" the proposed labor rates were "lower than the Government's independent cost estimate" (ICE) (which was provided with the solicitation) for each labor category. *Id.* The solicitation explained that the "extent and number of variances between the Offeror's proposed labor rate and the ICE will impact the assigned adjectival rating." *Id.* Further, the solicitation advised that the entire level of effort would be considered but that five "significant labor categories" (listed in the solicitation) would receive more emphasis. *Id.* The solicitation stated that "[u]nrealistically low labor rates may be viewed as evidence of failure to comprehend the labor rates necessary to recruit or retain qualified contractor personnel or to comprehend the complexity of the contract requirements." *Id.*

¹⁵ One table was for offerors who intended to indirectly charge facility costs and the other table was for offerors who intended to directly charge facility costs. AR, Tab 10, PPI at 8.

The agency assessed a rating of marginal to Mission Essential's proposal under this factor and concluded that it presented high risk of unsuccessful performance.¹⁶ AR, Tab 35, ATSCR at 1. The agency found that for three of the 18 labor categories, Mission Essential proposed labor rates with a zero variance or a positive variance, which indicated reduced performance risk.¹⁷ *Id.* at 2. However, the agency found that for the remaining 15 labor categories Mission Essential proposed labor rates with negative variances, which indicated increased performance risk. *Id.*

Of the 15 proposed labor rates with negative variances, the agency found 6 rates had negative variances between [DELETED] percent and [DELETED] percent; another 6 rates had negative variances between [DELETED] percent and [DELETED] percent; and the remaining 3 rates had negative variances between [DELETED] percent and [DELETED] percent. *Id.* at 2-3. The agency found that the labor rates for four of the five significant labor categories had negative variances. *Id.* at 3.

As a result of this evaluation, the agency concluded that Mission Essential's proposal presented a high level of risk. *Id.* at 4. Specifically, the agency stated that given the total number of proposed rates with negative variances and the extent of those negative variances, Mission Essential's proposal indicated a lack of "comprehension of the labor rates necessary to recruit or retain qualified contractor personnel and the complexity of the contract requirements[.]" *Id.*

Mission Essential first contends that the evaluation of its proposal under the ability to staff factor was unreasonable in light of the evaluation of its proposal under the cost factor. Protest at 39-44; Comments & Supp. Protest at 44-51. The protester asserts that because the solicitation stated "[u]nrealistically low labor rates may be viewed as evidence of failure to comprehend the labor rates necessary to recruit or retain qualified

¹⁶ A rating of marginal was defined as: "Based on the extent and number of proposed labor rates that are lower than the ICE rates, the risk of unsuccessful performance is high." AR, Tab 11, PEC at 5. The solicitation also defined the various risk ratings and defined "high risk" as: "Proposal contains a significant weakness or combination of weaknesses which is likely to have a high potential to cause significant disruption of schedule, increased cost, or degradation of performance. Special contractor emphasis and close Government monitoring will unlikely be able to overcome difficulties." *Id.*

¹⁷ The labor rates variance referred to an average rate variance between the proposed rate and the ICE rate for an individual labor category that considered the base and option periods of performance. See AR, Tab 35, ATSCR at 1-2. A zero variance or positive variance meant that the proposed labor rate, on average, was found to be equal to or greater than the ICE rate. *Id.* at 2. A negative variance meant that the proposed labor rate, on average, was found to be less than the ICE rate. *Id.* For example, a negative variance of [DELETED] percent meant that the average proposed labor rate for an individual labor category was found to be [DELETED] percent less than the ICE rate for that labor category. See e.g., AR, Tab 36, ATS Comparison at TREND Tab Row 6 (NSAG [DELETED]).

contractor personnel or to comprehend the complexity of the contract requirements,” its marginal rating necessarily meant that the agency must have determined that the labor rates proposed under the ability to staff factor for 15 of the 18 labor categories were unrealistic. Protest at 45 (stating that “the [s]olicitation indicates that ‘unrealistically low labor rates’ will drive the rating”).

Mission Essential maintains that this evaluation was inconsistent with the cost evaluation, where the agency did not determine that any of the proposed labor rates were unrealistic and found that the labor rates for only three of the labor categories were unsupported and had to be adjusted upward. Comments & Supp. Protest at 49-50. According to the protester, this demonstrates the agency conducted improper and inconsistent technical and cost evaluations. Protest at 39-40; Comments & Supp. Protest at 45-46 (citing *Ohio KePRO, Inc.*, B-417836, B-417836.2, Nov. 18, 2019, 2019 CPD ¶ 47 at 11 n.10; *L3 Unidyne, Inc.*, B-414902, *et al.*, Oct. 16, 2017, 2017 CPD ¶ 317 at 9; and *ITT Sys. Corp.*, B-405865, B-405865.2, Jan. 6, 2012, 2012 CPD ¶ 44 at 4 (all standing for the idea that in a cost-reimbursement procurement, an agency’s technical and cost evaluations must be consistent and withstand logical scrutiny)).

The agency defends its evaluation as reasonable and in accordance with the solicitation. MOL at 29-33. The agency argues that the ability to staff factor and the cost factor were separate and distinct, and that Mission Essential is conflating the factors. *Id.* at 29-30. Per the NSA, the ability to staff factor considered only the extent to which proposed labor rates differed from the provided ICE. *Id.* In short, the agency contends that the different factors looked at different aspect of proposals, served different purposes, and resulted in different types of ratings (e.g., an adjectival rating vs. a probable cost). *Id.*

Further, the agency argues that Mission Essential is misstating the evaluation results by stating that its rates were found unrealistically low under the ability to staff factor. *Id.* at 32. According to the agency, Mission Essential’s rates were not found unrealistically low; rather, they were found to be lower than the ICE rates and thus presented risk. *Id.*; see also COS at 11 (explaining that the evaluation result was driven by the number of rates with negative variances and the extent of those variances).

On this record, we find the agency’s evaluation reasonable and therefore deny this protest ground. First, we find that the agency’s evaluation under the ability to staff factor did not contravene the cost realism evaluation. Under the express terms of this solicitation, the agency was evaluating different aspects of the offerors’ proposals under the ability to staff factor than it was under the cost factor. As explained above, the ability to staff factor required offerors to submit a particular cost table in which the offeror would identify a labor rate for each labor category. See AR, Tab 10, PPI at 8. The solicitation explained that the agency would evaluate to what extent the proposed labor rates were lower than the government ICE and assign an adjectival rating. The solicitation stated that “the extent and number of variances between the [o]fferor’s proposed labor rate and the ICE will impact the assigned adjectival rating.” AR, Tab 11, PEC at 9.

In contrast, under the cost factor, offerors had to provide, among other things, multiple different cost tables as well as supporting information justifying proposed salaries and labor rates where necessary. AR, Tab 10, PPI at 10-23. The agency would evaluate the cost realism of the cost proposal pursuant to FAR subsection 15.404-1(d)(1) to develop an overall probable cost. AR, Tab 11, PEC at 10. Thus, under each of these factors, offerors were providing different cost tables and information, and the agency's evaluation therefore considered different aspects of the offerors' proposals.

Here, the record reflects that the agency conducted its evaluation of Mission Essential's proposal under the ability to staff factor consistent with the solicitation. As described above, the agency found that the proposed labor rates for 15 of the 18 labor categories were below the ICE to varying degrees. As a result, the agency assigned a rating of marginal, which reflected that "[b]ased on the extent and number of proposed labor rates that are lower than the ICE rates, the risk of unsuccessful performance is high." AR, Tab 11, PEC at 5. This is the exact evaluation contemplated by the solicitation under this factor.

Mission Essential's argument that the evaluation under the ability to staff factor is inconsistent with the cost evaluation is based on its claim that the agency must have found its rates to be unrealistic under the former factor because unrealistic labor rates would drive the rating assigned under this factor. However, this is not supported by the solicitation. Indeed, as stated above, the solicitation expressly stated that the "extent and number of variances between the [o]fferor's proposed labor rate and the ICE will impact the assigned adjectival rating." AR, Tab 11, PEC at 9. Consistent with this language, the record reflects that the agency reasonably assigned a rating of marginal under this factor based on the number of proposed labor rates that were below the ICE. Under the cost factor, the agency evaluated different information and different aspects of the offerors' proposals; therefore, the solicitation did not contemplate that the evaluation under each of these factors would necessarily be linked. Accordingly, this protest ground is denied.¹⁸

Second, Mission Essential argues that the agency's evaluation under the ability to staff factor was inconsistent with the terms of the solicitation by allegedly treating "the ICE as a labor rate floor" and finding "any labor rate lower than the ICE as unrealistically low."

¹⁸ Mission Essential also insists that the agency was required to conduct a realism analysis under the ability to staff factor. Comments & Supp. Protest at 47. This argument is based on the same language stating that unrealistically low labor rates could be evidence of a failure to comprehend the rates necessary to recruit and retain qualified personnel or comprehend the contract requirements. We disagree. The solicitation clearly stated how the agency intended to evaluate the ability to staff factor--by comparing proposed labor rates against the ICE. To the extent the protester believed the agency also had to conduct a more detailed realism analysis under this factor, this is an untimely challenge to the terms of the solicitation that should have been raised prior to the deadline for proposal submission. 4 C.F.R. § 21.2(a)(1).

Protest at 44; see Comments & Supp. Protest at 53. The protester further complains that the agency arbitrarily determined that any labor rate that was eight percent below the ICE would have a high impact on recruiting and retention and demonstrated a lack of understanding of the requirements, and also failed to justify this threshold. Comments & Supp. Protest at 51-53. Mission Essential also maintains that the agency failed to consider information in Mission Essential's cost proposal that supported and justified its proposed labor rates. *Id.* at 53.

The agency responds that the ICE rates were not treated as a "floor" but were used as a benchmark as contemplated by the terms of the solicitation. See MOL at 35. According to the agency, the solicitation "was clear that the Ability to Staff factor was based on a comparison of labor rates to the provided ICE." *Id.* at 34. The agency also contends that its use of an eight percent threshold was reasonably encompassed in the evaluation criteria for the ability to staff factor. Supp. MOL at 19. Further, the contracting officer states that to the extent Mission Essential suggests the agency should have considered documentation supporting proposed labor rates that were submitted under the cost factor, the solicitation did not allow the evaluators to consider such information under the ability to staff factor. COS at 11. In this regard, the contracting officer states that the evaluators were to consider only the proposed labor rates in comparison to the ICE and that supporting documentation was not part of the ability to staff evaluation. *Id.*

Here again, we find that the agency's evaluation was conducted reasonably and in accordance with the terms of this solicitation. As explained above, the solicitation informed offerors that under the ability to staff factor the agency would compare the proposed labor rates against the ICE, and that the "extent and number of variances between the Offeror's proposed labor rate and the ICE [would] impact the assigned adjectival rating." AR, Tab 11, PEC at 9. The agency's evaluation did exactly this and identified how many of, and to what extent, the proposed rates were less than the ICE rates. See AR, Tab 35, ATSCR at 1-4. We find such an evaluation to be directly in line with the terms of the solicitation.

We also agree with the agency that the use of an eight percent threshold to identify which rates would impact recruitment and retention or demonstrate a lack of understanding is reasonably encompassed within the solicitation evaluation criteria. The agency had to establish some threshold when assessing the proposed rates against the ICE and the protester has not demonstrated that this threshold was somehow inherently unreasonable. Further, we reject the protester's contentions that ICE rates were treated as labor rate floors and that any proposed rates lower than corresponding ICE rates were treated as being unrealistically low. As discussed in detail above, the solicitation established that proposed labor rates would be compared against the ICE and that rates below the ICE would impact the adjectival rating. Finally, we agree with the contracting officer that the terms of the solicitation did not allow the agency to consider supporting documentation for proposed labor rates under this factor, as argued by the protester. See AR, Tab 11, PEC at 9 (evaluation of ability to staff factor).

In sum, the record demonstrates a reasonable evaluation that was conducted as contemplated by the unique terms of the solicitation. Accordingly, this protest ground is denied.

Competitive Range Determination.

Next, Mission Essential challenges its exclusion from the competitive range. The protester raises two arguments: (1) the protester contends that even if the underlying evaluation of its proposal was reasonable (which it does not concede), its proposal is susceptible to improvement with discussions and thus exclusion from the competitive range is unreasonable; and (2) the competitive range determination fails to sufficiently consider Mission Essential's low cost. Protest at 67-70; Comments & Supp. Protest at 83-86.

As to the first argument, NSA counters that its competitive range determination was reasonable, adequately supported, and that the protest ground amounts to disagreement with the agency's judgment. MOL at 56. As to the second argument, NSA counters that the record demonstrates a sufficient consideration of cost and that this again represents disagreement with the agency's judgment. *Id.* at 57. As discussed below, we deny the challenges.

Under FAR section 15.306(c)(1), the "contracting officer shall establish a competitive range comprised of all of the most highly rated proposals," based on "the ratings of each proposal against all evaluation criteria," unless the range is further reduced for purposes of efficiency. An agency is not required to include a proposal in the competitive range where the proposal is not among the most highly rated proposals or where the agency otherwise reasonably concludes that the proposal has no realistic prospect of award. *Wahkontah Servs., Inc.*, B-292768, Nov. 18, 2003, 2003 CPD ¶ 214 at 4. Where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, exclusion from the competitive range is generally permissible. *CMC & Maint., Inc.*, B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2. Proposals with significant informational deficiencies may be excluded, whether the deficiencies are attributable to either omitted or merely inadequate information addressing fundamental factors. *American Med. Depot*, B-285060 *et al.*, July 12, 2000, 2002 CPD ¶ 7 at 6-7.

In excluding Mission Essential's proposal from the competitive range, the agency noted that Mission Essential's proposal was rated as unacceptable under the most important factor, management, and rated as marginal under the ability to staff factor, the second most important factor. AR, Tab 39, Competitive Range Determination at 12. Within the management factor, the agency noted that two of the evaluation findings for Mission Essential's proposal independently provided a basis to render the proposal ineligible for award. The agency also noted that Mission Essential's proposal received a significant weakness under the staffing subfactor which indicated a flaw in the proposal that appreciably increased the risk of unsuccessful contract performance.

As a result of the evaluation, the agency concluded that Mission Essential's proposal was "not amongst the most highly rated proposals" and "as submitted, is unawardable." *Id.* at 14. The agency found that the protester's management proposal:

is so informationally deficient that the revisions necessary to make it acceptable would require a complete rewrite of most of its proposal. In that regard, [Mission Essential's] proposal requires revisions under every single Management subfactor, as exemplified by the negative findings (i.e., weakness, significant weakness, or deficiency) assigned under each subfactor.

Id.

With respect to cost, the agency noted that Mission Essential's "low cost advantage is due in large part to its low labor rates, which pose significant operational and performance risks." *Id.* The agency concluded that "any benefits associated with [Mission Essential's] low probable cost are far outweighed by the significant issues in [Mission Essential's] unacceptable Management proposal and low-rated Ability to Staff proposal." *Id.*

Based on our review of the record, we reject the argument that the agency was required to include Mission Essential in the competitive range because its proposal was susceptible to improvement with discussions. Based on the extensive list of adverse evaluation findings reasonably assessed to Mission Essential's proposal, we find reasonable the agency's decision to exclude the proposal from the competitive range. As stated above, where a proposal is technically unacceptable as submitted and would require major revisions to become acceptable, exclusion from the competitive range is generally permissible. *CMC & Maint., Inc., supra.* Here, the agency has reasonably shown that Mission Essential's proposal is technically unacceptable as submitted and would require major revisions to become acceptable.¹⁹

¹⁹ The record reflects that one proposal included in the competitive range was assessed with a rating of unacceptable under the small business participation factor. AR, Tab 39, CRDD at 3. Mission Essential argues that this supports its position that the agency should have included Mission Essential's proposal in the competitive range, despite its unacceptable rating under the management factor. Comments & Supp. Protest at 2, 38. We are not persuaded by this argument. The record demonstrates that Mission Essential's proposal was excluded due to multiple adverse issues resulting in the agency's conclusion that "a complete rewrite" of most of Mission Essential's proposal would be required to make the proposal acceptable. AR, Tab 39, CRDD at 14. In contrast, the other proposal at issue was assessed with a rating of good under the management factor and a rating of outstanding under the ability to staff factor and was assessed with a single weakness under the management factor. *Id.* at 3, 5-6. Simply put, the record does not support the protester's argument here.

Moreover, the record reflects that the agency sufficiently considered cost in its competitive range determination. The competitive range determination expressly discusses Mission Essential's cost advantage over the other offerors and concludes that any benefits associated with Mission Essential's low cost are "far outweighed by the significant issues" noted in the management proposal and the ability to staff proposal. AR, Tab 39, CRDD at 14.

Accordingly, we find that Mission Essential's proposal was reasonably excluded from the competitive range, and the protester's challenges are denied.

Remaining Evaluation Challenges are Dismissed for Lack of Competitive Prejudice

Mission Essential raises a host of additional evaluation challenges under the technical and cost factors. For example, in a supplemental protest, Mission Essential challenges the agency's evaluation under the management factor's staffing subfactor, training subfactor, and innovation subfactor, contending that the evaluation unfairly and unequally assessed strengths among the competitors. Comments & Supp. Protest at 20-21, 26-29, 33-35; Supp. Comments at 7-25. In this regard, Mission Essential either claims that its proposal deserved a significant strength in place of a strength, or that other offerors were credited with strengths for proposing similar approaches to Mission Essential and that Mission Essential did not receive equal credit.²⁰ As another example, Mission Essential protests the evaluation of its proposal under the cost factor, challenging various evaluation findings such as an alleged lack of supporting data for certain labor rates and an inconsistency in its proposal regarding proposed labor hours for a subcontractor. Protest at 50-58; Comments & Supp. Protest at 64-72.

We do not address the merits of these remaining challenges because, even if we were to agree with Mission Essential on each point, we find no possibility of competitive prejudice. As already noted, competitive prejudice is an essential element of a viable protest. *Zolon PCS, LLC, supra*. We will sustain a protest only where the protester demonstrates that, but for the agency's improper actions, it would have had a substantial chance of receiving the award. *E.g., Technica LLC, B-417177 et al.*, Mar. 21, 2019, 2019 CPD ¶ 125 at 5-7 (finding no prejudice where protester challenged the decision not to award strengths or significant strengths and where granting the protester the credit sought would not alter the ultimate evaluation result). Where the record establishes no possibility of competitive prejudice, we will not sustain the protest even if a defect in the procurement is found. *Procentrix, Inc.*, B-414629, B-414629.2, Aug. 4, 2017, 2017 CPD ¶ 255 at 11-12.

As explained above, Mission Essential's proposal was reasonably rated as unacceptable under the management factor and reasonably rated as marginal under the

²⁰ The basis for these challenges is the competitive range determination filed with the agency report. In that document, Mission Essential was provided with, for the first time, information regarding the evaluation of the proposals included in the competitive range. See *generally* AR, Tab 39, CRDD at 5-6, 9-12.

ability to staff factor. These low ratings and their underlying evaluation findings formed the basis for the firm's reasonable exclusion from the competitive range. See AR, Tab 39, CRDD at 12-14. Therefore, even if Mission Essential were credited with the additional strengths and significant strength it seeks, its proposal would still suffer from the various adverse issues forming the basis for its exclusion. As the protester has not explained how crediting its proposal with the requested strengths and significant strength would convert its unacceptable proposal to an acceptable level given the remaining adverse issues, we find no possibility of competitive prejudice here. Therefore, these remaining technical challenges are dismissed.

Further, the record reflects that while cost was considered, it was not a material factor in the agency's decision to exclude Mission Essential's proposal from the competitive range. *Id.* Rather, as discussed above, the agency's focus was Mission Essential's poor technical evaluation results. *Id.* Therefore, even if Mission Essential were granted the cost adjustments it seeks through its challenges to the agency's cost evaluation, the basis for its exclusion from the competitive range would remain.

Adding to this point, we note that the difference between Mission Essential's proposed cost and its probable cost was just over \$400,000 on a \$407 million proposal.²¹ Even if Mission Essential's proposal was evaluated using its proposed cost (rather than the probable cost calculated by the NSA), its position as the lowest cost offeror would not change nor would its position be enhanced in any notable respect--Mission Essential would go from offering a [DELETED] percent cost advantage over the lowest cost offeror included in the competitive range to a [DELETED] percent cost advantage. As the protester has not explained how crediting its proposal with the requested cost adjustments would change the agency's conclusion that its lower cost was "far outweighed by the significant issues" in its management and ability to staff proposals, we find no possibility of competitive prejudice. Accordingly, the challenges to the evaluation of Mission Essential's cost proposal are dismissed.

Mission Essential is Not an Interested Party to Maintain Conflict Allegations

Finally, Mission Essential alleges various organizational and personal conflicts of interest. In short, Mission Essential argues that one offeror selected for the competitive range suffers from organizational conflicts of interest (OCIs) which the NSA failed to properly investigate and neutralize, and that the procurement is tainted by a personal conflict of interest where an NSA employee was in a position to allegedly influence the procurement in favor of one specific offeror.²² Protest at 59-67. As we have concluded

²¹ For ease of reference, Mission Essential's proposed cost was \$407,289,674 and its probable cost was \$407,691,849. AR, Tab 39, CRDD at 3.

²² We note that prior to filing its agency report, NSA requested dismissal of the OCI protest ground. See Partial Req. for Dismissal at 6-8. After reviewing the record and pleadings to date, we informed the parties that we intended to dismiss the OCI ground as premature. GAO Notice to Parties, Nov. 6, 2024. In its supplemental comments,

(continued...)

that Mission Essential was reasonably excluded from the competitive range and the record reflects that [Deleted] other offerors remain in the competition, we find that Mission Essential is not an interested party to maintain these challenges.

Under our bid protest regulations, an interested party is defined as an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract. 4 C.F.R. § 21.0(a). Where a protester would not be in line for award even if we were to resolve the protest in its favor, as is sometimes the case where the protester is not included in the competitive range, the firm lacks standing as an interested party. *STG Int'l, Inc.*, B-420759.4, B-420759.8, Aug. 24, 2022, 2022 CPD ¶ 223 at 17; *see also Teksynap Corp.*, B-419464.3, B-419464.4, Jan. 5, 2023, 2023 CPD ¶ 40 at 8 (protester was not an interested party to raise OCI allegations against an awardee where protester would not be in line for award if the OCI challenge was sustained); *Favor TechConsulting, LLC*, B-420279 *et al.*, Jan. 7, 2022, 2022 CPD ¶ 24 at 9 (protester was not an interested party to raise OCI allegations where protester's proposal was reasonably found ineligible for award).

As discussed in detail above, Mission Essential was reasonably excluded from the competitive range and [DELETED] viable offerors remain in the competition. Therefore, Mission Essential no longer has a direct economic interest in the LUCIDLOBSTER procurement and is no longer an interested party to challenge the procurement in any way. Accordingly, we dismiss the allegations of organizational and personal conflicts of interest.

The protest is denied.

Edda Emmanuelli Perez
General Counsel

Mission Essential attempts to revive the OCI ground by claiming that the allegedly conflicted firm leveraged competitively useful, nonpublic information to enhance its standing and earn admission to the competitive range. Supp. Comments at 25-29. As discussed above, to the extent Mission Essential has revived this challenge, it is dismissed because Mission Essential is no longer an interested party to challenge the LUCIDLOBSTER procurement.