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Decision

Matter of: TEAM CSI Joint Venture, LLC

File: B-422617.2, B-422617.3

Date: March 5, 2025

Stuart W. Turner, Esq., Nicole Williamson, Esq., and Kyung Liu-Katz, Esq., Arnold & Porter Kaye Scholar LLP, for the protester.

Emily J. Chancey, Esq., Maynard Nexsen, PC, for AccelGov LLC, the intervenor.

Colleen M. Eagan, Esq., Maurice Griffithe, Esq., and Peter Kwon, Esq., Defense Information Systems Agency, for the agency.

Michelle Litteken, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging agency's evaluation of proposals is denied where the agency's evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

Team CSI Joint Venture LLC, a small business joint venture of San Antonio, Texas, protests the issuance of a task order to AccelGov LLC, a mentor-protégé joint venture¹ of Bethesda, Maryland, under request for proposals (RFP) No. 642369727, issued by the Department of Defense, Defense Information Systems Agency (DISA) to provide

¹ AccelGov is a mentor-protégé joint venture comprised of 22nd Century Technologies, Inc., as the mentor member, and Agovx LLC, as the protégé member. Agency Report (AR), Tab 3a, AccelGov Proposal Cover Sheet at 1. The Small Business Administration's (SBA) small business mentor-protégé program allows small or large business firms to serve as mentors to small business protégé firms to provide "business development assistance" to the protégé firms and to "improve the protégé firms' ability to successfully compete for federal contracts." 13 C.F.R. § 125.9(a), (b); see 15 U.S.C. § 644(q)(1)(C). One benefit of the mentor-protégé program is that a protégé and mentor may form a joint venture. 13 C.F.R. § 125.9(d). If SBA approves a mentor-protégé joint venture, the mentor-protégé joint venture is permitted to compete as a small business for "any government prime contract, subcontract or sale, provided the protégé qualifies as small for the procurement[.]" *Id.* § 125.9(d)(1).

enterprise information technology (IT) support services to the National Defense University (NDU). The protester challenges various aspects of DISA's evaluation of the offerors' proposals, alleges that DISA should have referred AccelGov to the SBA because the firm is not a small business, and protests the best-value tradeoff decision.

We deny the protest.

BACKGROUND

On January 10, 2024, using the procedures of Federal Acquisition Regulation (FAR) section 16.505, the agency issued the RFP to small business holders of DISA's ENCORE III multiple-award indefinite-delivery, indefinite-quantity (IDIQ) contracts. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2. The RFP sought a contractor to provide enterprise IT support services, including program management, IT services support, and networking, to the NDU.² Agency Report (AR), Tab 1, RFP at 1. The solicitation contemplated the issuance of hybrid fixed-price task orders with cost-reimbursable contract line item numbers for travel, with a 1-year base period and four 1-year option periods. *Id.*

Award was to be made on a best-value tradeoff basis, considering the following factors: technical approach, quality/management approach, past performance, and price. RFP at 6. The RFP provided that technical approach was the most important factor, quality/management approach and past performance were equally important, and when combined, the nonprice factors were significantly more important than price. *Id.*

The technical approach factor consisted of the following equally important subfactors: system availability and recovery; change management; cybersecurity; modernization; and software development support. RFP at 6-7. The quality/management approach factor consisted of two equally weighted subfactors: quality control plan and management and staffing plan. *Id.* at 7. The RFP stated that DISA would assign proposals one of the following adjectival ratings under each subfactor: high confidence, some confidence, and low confidence. RFP at 6-7; AR, Tab 1g, RFP attach. 7, Evaluation Tables at 1.

The agency received five proposals, including the proposals submitted by Team CSI and AccelGov. AR, Tab 6, Price Negotiation Memorandum at 3. After evaluating the offerors' proposals, DISA selected AccelGov's proposal for award, and Team CSI filed a protest with our Office challenging the evaluation of its own proposal and the award decision. COS/MOL at 5. We dismissed the protest as academic after DISA advised our Office of its intent to take corrective action by reevaluating the protester's proposal under the technical approach and quality/management approach factors and making a

² The NDU is a graduate-level university with campuses at Fort McNair in Washington, D.C., the Joint Forces Staff College in Norfolk, Virginia, and Ft. Liberty in North Carolina. COS/MOL at 2.

new award decision. *Team CSI Joint Venture, LLC*, B-422617, June 21, 2024 (unpublished decision).

Following dismissal of Team CSI’s first protest, the agency reevaluated the protester’s proposal, and the evaluation results for the proposals submitted by Team CSI and AccelGov were as follows:

	Team CSI	AccelGov
Technical Approach		
System Availability & Recovery	Some Confidence	High Confidence
Change Management	Some Confidence	High Confidence
Cybersecurity	Some Confidence	High Confidence
Modernization	High Confidence	High Confidence
Software Development Support	High Confidence	High Confidence
Quality/Management Approach		
Quality Control Plan	High Confidence	High Confidence
Management & Staffing Plan	Some Confidence	High Confidence
Past Performance	Satisfactory	Satisfactory
Evaluated Price/Cost	\$48,635,158	\$45,482,803

AR, Tab 8a, Debriefing at 1.

When the Technical Evaluation Board (TEB) evaluated Team CSI’s proposal under the technical approach subfactors, the TEB assigned a rating of some confidence where it found that the protester’s proposal did not adequately address requirements. AR, Tab 4, Technical Approach Evaluation at 2-7. For example, when evaluating the protester’s proposal under the change management subfactor, the TEB observed: “Considering the full change management lifecycle, the Offeror does not provide an approach to the closeout phase of the change management process. The Offeror references their process but does not provide details regarding their capability to execute the change management closeout function.” *Id.* at 5.

When the TEB evaluated Team CSI’s proposal under the management and staffing plan subfactor, the TEB identified several aspects of the proposal that decreased the agency’s confidence in the protester’s ability to successfully perform the contract. For example, the TEB found that the protester did not fully substantiate its approach for task areas three and four of the performance work statement (PWS). AR, Tab 5, Quality/Management Approach Evaluation at 7-8. For both task areas, the TEB concluded that Team CSI could not accomplish the requirements with the labor hours, labor mix, and processes proposed.³ *Id.*

³ For PWS task area four, the TEB noted that Team CSI proposed to accomplish the requirements with [DELETED] of the hours that the agency anticipated, without

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The contracting officer, who served as the source selection authority, reviewed and analyzed the TEB's evaluation findings for each proposal. AR, Tab 6, Price Negotiation Memorandum at 73-79. The contracting officer found that AccelGov's proposal was technically superior to Team CSI's proposal under the technical approach factor and the quality/management approach factor. *Id.* at 73, 78. The contracting officer concluded that because AccelGov's proposal was higher-rated under the most important factors and lower-priced, it represented the best value, and DISA issued the task order to AccelGov. *Id.*; see also COS/MOL at 16.

After being notified of the source selection decision and receiving a debriefing, Team CSI filed this protest with our Office.⁴

DISCUSSION

Team CSI protests the agency's evaluation of its proposal under the technical approach factor and the quality/management approach factor, as well as DISA's evaluation of the awardee's proposal under the past performance factor. Additionally, the protester asserts that DISA should have questioned whether AccelGov was a small business and referred the matter to the SBA. Lastly, Team CSI challenges the best-value tradeoff decision. For the reasons discussed below, we deny the protest.⁵

describing any particularly efficient approach or otherwise supporting its low staffing level. AR, Tab 5, Quality/Management Approach Evaluation at 8.

⁴ The awarded value of the task order at issue exceeds \$25 million. Accordingly, at the time this protest was filed on November 27, 2024, this procurement was within our jurisdiction to hear protests related to the issuance of orders under multiple-award IDIQ contracts that were awarded under the authority of title 10 of the United States Code. 10 U.S.C. § 3406(f)(1)(B); see National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, ___ Stat. ___ § 885 (2024) (amending jurisdictional threshold to \$35 million for protests of orders placed under IDIQ contracts awarded under authority of title 10, effective December 23, 2024); *Technatomy Corp.*, B-405130, June 14, 2011, 2011 CPD ¶ 107 at 5-6 (changes to jurisdiction will not be given retroactive effect, absent specific statutory direction).

⁵ Although we do not address every protest ground, we have considered them and find none to be meritorious. For example, the protester contends that the results of the corrective action reevaluation differed from the prior evaluation, and that the agency was required to explain the changes, citing to our decision in *eAlliant, LLC*, B-407332.6, B-407332.10, Jan. 14, 2015, 2015 CPD ¶ 229. Protest at 11-19; Comments & Supp. Protest at 28-33. We find the legal principles in *eAlliant* inapposite here because of differing facts. In *eAlliant* the re-evaluation results were materially different from those reached in prior evaluations, and on that basis we concluded that the source selection authority was required to provide some explanation. Here, the protester has not shown that the results in the reevaluation were materially different from the prior evaluation. The protester's proposal received the same adjectival ratings in both evaluations, and
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Preliminary Issues

Before turning to the merits of Team CSI's protest, we address the agency's request for partial dismissal.⁶ In its initial protest, Team CSI alleges that the agency evaluated the offerors' proposals disparately; AccelGov proposed key personnel that are unavailable or that it never intended to use; and DISA should have referred the awardee to the SBA for a size determination, alleging that the awardee does not qualify as a small business for the procurement.

Prior to submitting its report, DISA filed a request that our Office dismiss these protest grounds. After reviewing the request for partial dismissal and the protester's response, we advised the parties that the agency need not respond to the allegations concerning the alleged unequal treatment or the awardee's key personnel in its agency report. GAO Notice Concerning Reqs. for Partial Dismissal. We address the dismissal of these two allegations below.⁷

Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. 4 C.F.R. §§ 21.1(c)(4), (f). That is, a protest must include sufficient factual bases to establish a reasonable potential that the protester's allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. *Chags Health Info. Tech., LLC, B-420940.3 et al.*, Dec. 14, 2022, 2022 CPD ¶ 315 at 5. Where a protester relies on bare assertions, without further supporting details or evidence, our Office will find that the protest ground amounts to no more than speculation and does not meet the standard contemplated by our regulations for a legally sufficient protest. *Id.*

We first address the protester's allegations of unequal treatment under two of the technical approach subfactors. Team CSI argues that although its proposal met the

the changes in the TEB's comments were minor (e.g., elaborating on the basis for the finding that the protester's proposed staffing was inadequate)--not the "starkly different conclusions" reached by the evaluators in *eAlliant*. We find nothing inherently objectionable with DISA's reevaluation of proposals. *CACI, Inc.*, B-420729.2, March 1, 2023, 2023 CPD ¶ 51 at 5-6 (denying protest of reevaluation where the evaluation conclusions were not starkly different).

⁶ AccelGov also filed a request for partial dismissal, seeking dismissal of the same protest grounds. Because the arguments raised by the agency and the intervenor are materially the same, we do not separately discuss the intervenor's arguments.

⁷ Prior to the submission of the agency report, we declined to dismiss the protester's allegation that DISA should have referred AccelGov to the SBA because Team CSI's allegations were sufficient to persuade our Office that we required more information to resolve the matter. As discussed below, we dismiss this protest allegation after reviewing the agency's response in the agency report because the record does not support the protester's assertions.

requirements, its proposal received lower ratings than the awardee's proposal, and these discordant evaluation results indicate the agency applied different standards to the offerors' proposals, evidencing unequal treatment. Team CSI does not allege that the relevant aspects of its proposal were similar to the awardee's; instead, it maintains that its proposal also met the requirements. Further, Team CSI asserts that the agency's evaluation "suggests that the Agency accepted an assertion by the awardee" that its approach was more complete, and that the agency then viewed anything less to be incomplete--in other words, the agency applied unstated evaluation criteria by using AccelGov's proposal as the basis for evaluation rather than the terms of the solicitation. Protest at 27-28, 40. DISA contends that these protest allegations are legally and factually insufficient because they are based on unsupported speculation about the nature of the agency's evaluation. 1st Req. for Dismissal at 3-5.

We agree with the agency. The only support that Team CSI offers for its allegations is its speculation about the contents of AccelGov's proposal and DISA's conclusions about the relative merits of each offeror's approach. For example, Team CSI speculates that DISA downgraded its proposal under the change management subfactor because the protester did not propose the same configuration management database tool as the awardee. Protest at 40. The protester, however, does not know what tools AccelGov proposed or how that aspect of its proposal was evaluated. Such speculation is insufficient to support a protest. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 4 ("[T]he allegation amounts to little more than conjecture and does not provide a valid basis of protest.").

We next address the protest argument concerning the awardee's key personnel. Team CSI contends that AccelGov proposed an individual that it never intended to use during performance, an improper practice known as a bait and switch. Protest at 61. To support this allegation, the protester states that after the task order was issued, AccelGov contacted an incumbent employee and offered him a role as AccelGov's cyber team lead. *Id.*; Protest exh. W, Offer Letter. Team CSI asserts that the offered role is "a clear match for the 'Computer Security Systems Specialist--Lead,'" which the RFP designated as a key personnel position. Protest at 63-64.

DISA argues that the protest allegation is factually insufficient because the offer letter shows the offer was made by 22nd Century Technologies, Inc., rather than AccelGov, the joint venture awardee itself; the letter does not refer to the task order; and the requirements and role described in the letter do not align with the task order requirements.⁸ 1st Req. for Dismissal at 5.

We dismiss Team CSI's protest concerning the alleged unavailability of the awardee's key personnel. As noted above, a protester must present protest grounds that are factually and legally sufficient, and where a protester's allegations are based on speculation, factual inaccuracies, or flawed legal assumptions, we will summarily

⁸ For example, the agency notes that the offer letter does not require the individual to be a U.S. citizen--a task order requirement. 1st Req. for Dismissal at 5.

dismiss the protest. 4 C.F.R. § 21.1(c)(4) and (f); *Xenith Grp., LLC*, B-420706, July 14, 2022, 2022 CPD ¶ 184 at 5. Further, to establish an impermissible bait and switch, a protester must show that a firm either knowingly or negligently represented that it would rely on specific personnel that it did not expect to furnish during contract performance, and that the misrepresentation was relied on by the agency and had a material effect on the evaluation results. *Xenith Grp., supra*.

Here, Team CSI's protest allegation is not factually supported by the record. In this context, the only evidence of an impermissible bait and switch that Team CSI provides is an offer letter that does not reference the task order and that refers to a position that does not reflect the task order requirements. Protest exh. W, Offer Letter. It is entirely plausible that the offer letter pertains to a position under a different requirement. We conclude that the protester has not provided sufficient information to support its basis for protest; instead, it bases this allegation on speculation. See *ICF Inc., L.L.C.*, B-419049.3, B-419049.4, Mar. 9, 2021, 2021 CPD ¶ 117 at 8 (stating that evidence of recruitment efforts does not, by itself, establish a bait and switch claim).

Technical Proposal Evaluation

Turning to the protester's remaining allegations, Team CSI challenges DISA's evaluation of its proposal under the four subfactors for which the TEB assigned its proposal a rating of some confidence: system availability and recovery; change management; cybersecurity; and management and staffing subfactor. The protester generally contends that the TEB misread or ignored information in Team CSI's proposal, rendering the evaluation unreasonable. Protest at 19-60; Comments & Supp. Protest at 5-28. The agency responds that Team CSI's proposal lacked adequate detail in all of these areas. COS/MOL at 21-40. For the reasons below, we deny the protester's arguments. We discuss three representative examples of Team CSI's challenges to the evaluation below.

In reviewing a protest challenging an agency's evaluation, our Office will not reevaluate proposals or substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *General Dynamics Info. Tech., Inc.*, B-421290, B-421290.2, Mar. 1, 2023, 2023 CPD ¶ 60 at 4. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Further, an offeror bears the burden of submitting an adequately written proposal and runs the risk of an unfavorable evaluation when it fails to do so. *Resource Mgmt. Concepts, Inc.*, B-421320, Mar. 20, 2023, 2023 CPD ¶ 101 at 5. A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was unreasonable. *General Dynamics Info., supra*.

As a representative example, Team CSI challenges the TEB's finding under the system availability and recovery subfactor⁹ that although Team CSI "describes their ability to identify outages and issues prior to [NDU users], they do not address their response or recovery procedures to ensure system availability. The Offeror did not provide detail concerning recovery and management of the outage." AR, Tab 4, Technical Approach Evaluation at 3. The TEB also noted that the "proposal does not provide the necessary information to ascertain how they intend to assess, address, and resolve issues and/or outages in real time to minim[ize] downtime to the network." *Id.* The protester contends that DISA ignored information in its proposal when reaching this conclusion. Protest at 33-35.

In response, the agency asserts that Team CSI's proposal did not include details regarding how it would respond to an outage; instead, it focused on how CSI would prevent an outage. COS/MOL at 26-27. The agency states that the proposal contained generic language about recovering systems, isolating devices, and restoring capability, but the proposal did not provide details concerning how Team CSI would accomplish these tasks. *Id.*; see also AR, Tab 10, TEB Chair Decl. at 5. The protester asserts that this explanation is a *post-hoc* rationalization that differs from the contemporaneous evaluation record because, according to the protester, the agency's contemporaneous evaluation downgraded its proposal for not addressing response or recovery procedures whatsoever--not for a perceived lack of detail. Comments & Supp. Protest at 13-14.

We find no merit to the protester's arguments. The protester focuses on words and phrases from the TEB report in isolation when it asserts that the evaluators downgraded Team CSI's proposal for failing to address the requirement whatsoever--as opposed to failing to provide sufficient detail. See Comments & Supp. Protest at 13-14. The protester emphasizes the TEB's statement that the protester did not "address their response or recovery procedures to ensure system availability" and disregards the statements in the contemporaneous record where the TEB noted the aspects of Team CSI's approach that lacked detail. See e.g., AR, Tab 4, Technical Approach Evaluation at 3 ("The Offeror did not provide detail concerning recovery and management of the outage."). The protester has not demonstrated that DISA's evaluation of Team CSI's proposal was unreasonable.¹⁰

⁹ The RFP provided that the agency would evaluate proposals under the system availability and recovery subfactor by assessing the "approach and capability to ensuring system availability and minimizing system downtime," and offerors were directed to "describe their approach and capability to handling system outages and ensuring system availability, along with associated metrics, such as data recovery percentages, recovery point and time objectives, and the management of an outage." RFP at 6.

¹⁰ Team CSI does not meaningfully respond to the agency's assertion that the proposal lacked sufficient detail. Instead, the protester states: "Nothing is easier for an agency in defense of a protest than claiming after the fact that an offeror needed to provide

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Moreover, to the extent the protester asserts that the declaration submitted by the TEB chair offers *post-hoc* explanations of the evaluation, we note that under certain circumstances, our Office will accord less weight to *post-hoc* arguments or analyses due to concerns that judgments made “in the heat of an adversarial process” may not represent the fair and considered judgment of the agency, which is a prerequisite of a rational evaluation and source selection process. *Boeing Sikorsky Aircraft Support*, B-277263.2, *et al.*, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15. However, post-protest explanations that provide a detailed rationale for contemporaneous conclusions, and simply fill in previously unrecorded details will generally be considered in our review of evaluations and award determinations, so long as those explanations are credible and consistent with the contemporaneous record. *Epsilon, Inc.*, B-419278, B-419278.2, Feb. 2, 2021, 2021 CPD ¶ 71 at 4. In this case, we conclude that the TEB chair’s explanations are credible, and consistent with the TEB report conclusions and the contents of Team CSI’s proposal. Accordingly, we deny this protest allegation.

As a second representative example, Team CSI contends that under the change management subfactor, the agency unreasonably ignored information in its proposal regarding the closeout phase of the change management process.¹¹ Protest at 40-42; Comments & Supp. Protest at 18-19. In evaluating the protester’s proposal, the TEB wrote: “Considering the full change management lifecycle, the Offeror does not provide an approach to the closeout phase of the change management process. The Offeror references their process but does not provide details regarding their capability to execute the change management closeout function.” AR, Tab 4, Technical Approach Evaluation at 5. The protester points to language from its proposal discussing the change process and alleges that its proposal met the requirement to “describe their approach and capability to completing a lifecycle Change Request and change execution (from inception, to implementation, through closeout and addition to the change management database).” Protest at 40-42; RFP at 6. The agency responds that the TEB’s evaluation findings are appropriate for the protester’s proposal, which DISA states did not provide details concerning the closeout phase. COS/MOL at 30-31; AR, Tab 10, TEB Chair Decl. at 8-9.

Based on our review, we find the agency reasonably evaluated this aspect of Team CSI’s proposal. The record demonstrates that DISA reasonably determined that Team CSI’s discussion of its approach to change management failed to provide sufficient information concerning the company’s ability to execute the change management closeout function. The protester points to language in its proposal concerning the entire lifecycle of the process, audit results, and post-implementation reviews, but it does not identify any part of its proposal where it discussed the specific steps involved in closing

more detail, and that any problem with the evaluation is due to a ‘poorly written proposal.’” Comments & Supp. Protest at 14.

¹¹ For this subfactor, the RFP stated DISA would evaluate the offeror’s approach and capability for change management; Offerors were to describe their approach to completing a lifecycle change request, including closeout. RFP at 6.

out the change management process. See Protest at 40-42. We find no basis to question the agency's determination that Team CSI's proposal failed to include adequate detail concerning the closeout phase of change management. As a result, this protest ground is denied.

As a final example, we discuss one of the protester's arguments concerning the agency's evaluation of its proposal under the: management and staffing plan subfactor-the second subfactor under the quality/management approach factor.¹² The TEB found that Team CSI's proposed management and staffing approach for PWS task area three, cybersecurity, was "not fully substantiated and [did] not clearly indicate appropriate support to meet the requirements of the PWS." AR, Tab 5, Quality/Management Approach Evaluation at 7. The evaluators acknowledged that the protester proposed various models and techniques to bring efficiencies, and continued:

Rigid adherence to any or all these models would not enable the Offeror to accomplish these tasks in the number of hours proposed. The offeror does not detail any underlying mechanism of any of these industry buzzwords that would enable them to realize any specific efficiency which would elevate them to any heightened level of productivity such that the volume of work required could be accomplished in the hours proposed. The proposed labor hours, coupled with the proposed labor skill mix, are not appropriate to achieve the requirements, nor do they indicate appropriate support to align with the Offeror's technical approach.

Id. The TEB concluded that the protester's proposed approach left the agency with no more than some confidence that Team CSI could perform without agency intervention. *Id.* at 8. The protester argues that the viability of its proposed approach is supported by the fact that the incumbent Team CSI joint venture member has been performing nearly the same requirements using the same level of effort. Protest at 51-52. The protester complains that DISA unreasonably confined its analysis to the number of hours proposed and ignored the efficiencies in its proposed approach. *Id.*

In response, the agency states that the staffing under the existing contract is not instructive for the solicited requirements because there are "massive differences between the two PWS's." COS/MOL at 35. For example, the agency states that the incumbent PWS contains eight discrete subtasks within the cybersecurity task area, and the PWS for the RFP includes 17 cybersecurity subtasks. *Id.* at 36. Additionally, DISA asserts that the TEB considered the protester's entire approach and determined that the proposed efficiencies would not enable Team CSI to perform using the hours and labor categories proposed. *Id.* at 35.

¹² The RFP provided that the agency would evaluate the offeror's approach to management and staffing, including whether the offeror proposed an appropriate mix of labor categories, labor skill mix, and number of hours to meet the requirements of the PWS. RFP at 7.

We find unobjectionable the agency's evaluation of Team CSI's management and staffing approach for PWS task area three, cybersecurity. The issue here is whether it was unreasonable for DISA to conclude that the hours and labor mix that Team CSI proposed were insufficient, notwithstanding the protester's assertions that the efficiencies it proposed would allow it to perform the requirements. The protester has not shown this to be the case. The TEB documented its view that, given the scope and nature of the subtasks, the number of hours and labor mix that Team CSI proposed was inadequate.¹³ AR, Tab 5, Quality/Management Approach Evaluation at 7-8. Contrary to the protester's allegations, the TEB recognized that Team CSI included models and techniques to achieve efficiencies (e.g., job mirroring, shared support, automated tools), but DISA found that the "generalized process models and techniques" were insufficient. *Id.* at 7. The evaluators noted that they would have more confidence in Team CSI's ability to perform if the protester had "detailed anything that would permit some sort of efficiency that would enable them to accomplish the cybersecurity requirements at these lower than anticipated levels of staffing." *Id.* at 8. The protester's argument that this finding was improper amounts to disagreement with the agency's judgment and does not provide a basis on which to sustain the protest.¹⁴ *Octo Consulting Grp., Inc.*, B-420988, B-420988.2, Nov. 30, 2022, 2023 CPD ¶ 2 at 7.

¹³ In contrast, for task area two, Team CSI also proposed fewer hours than the agency anticipated, but the TEB found the protester's approach was fully substantiated because the personnel supporting the requirement were more experienced, resulting in efficiencies. AR, Tab 5, Quality/Management Approach Evaluation at 7.

¹⁴ After receipt of the agency report, Team CSI raised a supplemental protest allegation under the same subfactor, complaining that DISA evaluated the offerors' staffing approaches disparately. Comments & Supp. Protest at 24-26. The protester asserted that because AccelGov proposed a lower price, its proposal could not have provided sufficient labor hours, and it should not have been higher rated. *Id.* at 25. DISA requested dismissal, arguing the allegation was factually insufficient, as well as untimely. 2nd Req. for Dismissal at 3.

After reviewing the request for partial dismissal and the protester's response, we advised the parties that the agency need not respond to the allegation of disparate treatment. As noted above, a protest must include sufficient factual bases to establish a reasonable potential that the protester's allegations may have merit; bare allegations or speculation are insufficient to meet this requirement. *Chags Health Info. Tech.*, *supra*. Here, the protester's allegations are speculative because they are based purely on inference, as opposed to any evidence. The protester does not provide any evidence to substantiate its claim that AccelGov proposed an insufficient number of personnel. Further, absent a price realism provision (as is the case here), there is nothing objectionable in an offeror's proposal of low, or even below-cost, prices. *Chugach Logistics-Facility Servs. JV, LLC*, B-421351, March 21, 2023, 2023 CPD ¶ 80 at 4. Thus, we conclude that these protest grounds are speculative because they require us to infer that the agency unreasonably evaluated the awardee's proposal based entirely on its lower price.

Furthermore, we are not persuaded by the protester's argument that DISA should have found Team CSI's own staffing approach sufficient because Team CSI proposed an approach that was similar to the incumbent contract. Protest at 51-52; Comments & Supp. Protest at 25. As noted above, the PWS for the incumbent effort includes approximately half as many cybersecurity subtasks as the PWS for the protested task order.¹⁵ COS/MOL at 39. Additionally, the agency explains that the new PWS features revamped requirements, including implementing a zero trust architecture and an updated cloud architecture. COS/MOL at 40; AR, Tab 10, TEB Chair Decl. at 14-15. DISA states that implementing a zero trust architecture "requires a massive re-organization of enterprise permissions" and that the initiative will require "significantly more manpower." AR, Tab 10, TEB Chair Decl. at 14. On this record, we find no basis to question the reasonableness of the agency's conclusion that the protester's proposed management and staffing approach was insufficient and reasonably reduced DISA's confidence in Team CSI's ability to meet the expanded requirements. To the extent the protester disagrees and contends that it could perform the requirements with its proposed staffing, we find such an argument to be disagreement with DISA's reasoned judgment, which does not constitute a basis to sustain the protest. *Octo Consulting Grp., supra*.

Past Performance Evaluation

Team CSI argues that DISA unreasonably assigned AccelGov's proposal a rating of satisfactory confidence under the past performance factor when AccelGov submitted, at most, one relevant past performance reference. Comments & Supp. Protest at 38-40; Supp. Comments at 8-14. The agency responds that it reasonably determined that all three past performance references the firm submitted were relevant, and that the satisfactory confidence rating was appropriate.¹⁶ Supp. MOL at 7-10.

An agency's evaluation of past performance, including its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of agency discretion that we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented. *MES Simulation & Training Corp.*, B-416210, B-416210.2, July 10, 2018, 2018 CPD ¶ 261

¹⁵ Additionally, the agency states although Team CSI claims that [DELETED] full-time equivalents (FTEs) are performing the cybersecurity requirements on the incumbent contract, the incumbent contract utilizes [DELETED] FTEs. COS/MOL at 38. Team CSI does not rebut the substance of DISA's assertion and instead argues that "the Agency's nitpicking of the exact number of FTEs utilized under the incumbent contract fails to address the core of the Agency's unreasonable disregard of [Team CSI's] proposal." Comments & Supp. Protest at 24-25 n.4.

¹⁶ The RFP defined a satisfactory confidence rating as follows: "Based on the Offeror's recent/relevant performance record, the Government has a reasonable expectation that the Offeror will successfully perform the required effort." AR, Tab, 1g, RFP, attach. 7, Evaluation Tables at 2.

at 9. The evaluation of past performance, by its very nature, is subjective, and we will not substitute our judgment for reasonably based evaluation ratings. *Id.*

The RFP provided that DISA would assign past performance references a rating of relevant, somewhat relevant, or not relevant, and it stated: “Relevant performance may include efforts in a variety of sizes, disciplines, and technical complexities.” RFP at 9; RFP attach. 7, Evaluation Tables at 1. Additionally, the RFP stated that past performance projects should demonstrate experience with as many of the PWS task areas as possible, and it provided a list of six examples of similar efforts.¹⁷ RFP at 9-10. Team CSI alleges that two of the awardee’s past performance projects did not satisfy the relevancy criteria.

As an example, we discuss AccelGov’s third past performance project, a subcontract performed by Agovx (the managing member of the joint venture), supporting the healthcare integrated general ledger accounting system of the Centers for Medicare and Medicaid Services. AR, Tab 13a, AccelGov Past Performance Proposal at 7-9. The evaluators reviewed AccelGov’s proposal and found that the project demonstrated experience in essentially all of the PWS task areas.¹⁸ AR, Tab 13b, AccelGov Past Performance Evaluation at 6-7. The evaluators also compared the referenced subcontract’s scope of work with the list of six similar efforts in the RFP and found that the subcontract demonstrated experience with five of the six similar efforts. *Id.* at 7. DISA determined that AccelGov’s third past performance project was similar in scope, magnitude, and complexity to the RFP, and it rated the project as relevant. *Id.*

The protester contends that the dollar value of the subcontract, as well as “Agovx’s subordinate role” as a subcontractor made AccelGov’s third past performance project “a complete mismatch” to the role Agovx would have in task order performance--performing 51 percent of the task order. Supp. Comments at 11. The protester complains that the reference should have been rated as not relevant.

Based on our review, we find nothing unreasonable regarding DISA’s evaluation. As noted previously, the RFP established that past performance projects in a variety of sizes, disciplines, and complexities could be considered relevant, and past performance projects should demonstrate experience with as many of the PWS task areas and example efforts as possible. RFP at 9. Here, Team CSI does not dispute that

¹⁷ For example, the RFP identified the following as similar efforts: providing enterprise IT support for federal or Department of Defense educational institutions; staffing and managing an effort with 45 or more employees; and managing a helpdesk with an average call volume of 1,000 calls per month. RFP at 10.

¹⁸ The agency noted that the subcontract did not demonstrate experience with one subtask--full network assessments--but DISA concluded that this did not affect the relevancy of the project because a full network assessment would only be required in the base period and was a small portion of the overall requirement. AR, Tab 13b, AccelGov Past Performance Evaluation at 7.

AccelGov's third past performance project demonstrated experience with all PWS task areas and five of the RFP's six example efforts. Instead, the protester focuses on the dollar value of the subcontract (\$26 million) versus the value of the prime contract (more than \$450 million), and Agovx's role as a subcontractor. The protester asserts: "Performing as a subcontractor responsible for workshare percentages in the single digits cannot be considered to have any of the scope or magnitude of the responsibilities for which Agovx is proposed." Comments & Supp. Protest at 42.

However, as noted above, the RFP specifically provided that projects of a variety of sizes could be considered relevant and to the extent the protester challenges the agency's relevance determination by comparing Agovx's subcontract to the total value of the underlying prime contract, this is not the relevant basis of comparison because the agency was not awarding a \$450 million dollar contract here. Rather, the relevant comparison is the value of Agovx's subcontract of \$26 million as compared to the \$45 million value of the contract awarded to AccelGov. Additionally, to the extent Team CSI maintains that the agency's evaluation was improper because the agency did not discount the relevance of the project based on Agovx's role a subcontractor, the RFP did not provide that subcontracts would be deemed less relevant, and the protester's disagreement with the agency's evaluation, without more, is insufficient to demonstrate that the evaluation was unreasonable or inconsistent with the terms of the solicitation. See *Virgo Med. Servs., Inc.*, B-420462.3, B-420462.4, Aug. 5, 2022, 2022 CPD ¶ 208 at 7-8. The protest of the awardee's past performance evaluation is denied.

Small Business Status

The protester complains that AccelGov is not a small business, and because this was allegedly evident from the firm's proposal, DISA should have referred AccelGov to the SBA for a size status determination. Protest at 65. The protester elaborates that because AccelGov received its first contract award on July 14, 2021, and it did not receive the ENCORE III contract until more than two years later, under SBA's regulations, the joint venture members are affiliated, other-than-small, and ineligible for award.¹⁹ *Id.* at 65-67 (*citing* 13 C.F.R. § 121.103(h)). The protester claims that

¹⁹ SBA's regulation provides, in relevant part:

A joint venture is an association of individuals and/or concerns with interests in any degree or proportion intending to engage in and carry out business ventures for joint profit over a two-year period. . . . This means that a specific joint venture generally may not be awarded contracts beyond a two-year period, starting from the date of the award of the first contract, without the partners to the joint venture being deemed affiliated for the joint venture. However, a joint venture may be issued an order under a previously awarded contract beyond the two-year period. Once a joint venture receives a contract, it may submit additional offers for a period of two years from the date of that first award. An individual joint

(continued...)

AccelGov's ineligibility for award should have been obvious to the agency based on the firm's past performance references and the date of the ENCORE III contract. *Id.* at 66-67.

Ultimately, whether AccelGov qualifies as a small business is a matter reserved exclusively for the SBA. See FAR 19.307; 13 C.F.R 121.1002; *Superior Optical Labs, Inc.*, B-418618, B-418618.2, July 7, 2020, 2020 CPD ¶ 229 at 7. Because the SBA, and not our Office, is the designated authority for determining whether a firm is an eligible small business concern, we generally will dismiss a protest challenging a firm's small business or socio-economic status. See 4 C.F.R. § 21.5(b)(1); see e.g., *DynaLantic Corp.*, B-402326, Mar. 15, 2010, 2010 CPD ¶ 103 at 5 (“[T]he SBA, not our Office, has conclusive authority to determine the size status of an offeror for federal procurement purposes”).

A limited exception applies, however, when a protester argues, as Team CSI does here, that the awardee's offer shows on its face that it is not eligible for award as a small business. In such instances, we will review the reasonableness of the contracting officer's decision not to refer the matter to the SBA. *Superior Optical Labs, supra.*

To the extent the protester seeks to invoke this limited exception, its efforts are misplaced. Here, Team CSI's allegation that it should have been apparent to DISA that AccelGov was other-than-small and ineligible for award is premised on the notion that it was obvious from AccelGov's proposal that the firm received the ENCORE III contract more than two years after its first contract award. Protest at 65-67. The protester claims that the ENCORE III contract information AccelGov included in its proposal, along with its past performance references, should have telegraphed this fact to DISA. *Id.*

The problem with the protester's argument is that it finds no support in the record. Here, the protester has not shown that anything on the face of AccelGov's proposal would have called into question its small business status. For one, AccelGov did not provide the date that it received the ENCORE III contract in its proposal.²⁰ AR, Tab 3a, AccelGov Proposal Coversheet at 1. Furthermore, AccelGov did not include any contracts performed by the joint venture as past performance projects. AR, Tab 13a,

venture may be awarded one or more contracts after that two-year period as long as it submitted an offer prior to the end of that two-year period.

Additionally, example three in the regulation provides that if a joint venture submits a novation package for contracting officer approval before the expiration of the two-year period, the contract may be novated to the joint venture without resulting in a finding of general affiliation. 13 C.F.R. § 121.103(h).

²⁰ This was consistent with the RFP's instruction to provide “Name of the Prime Offeror, Address, [commercial and government entity code], ENCORE III Contract Number, and Unique Entity ID (UEI) Number.” RFP at 3. Offerors were not required to provide the contract award date.

AccelGov Past Performance Proposal at 1, 4, and 7. As such, contrary to the protester's allegations, it was not evident from AccelGov's proposal when the joint venture had been awarded its first contract. Accordingly, we dismiss this protest ground because, as stated above, our Office does not consider challenges to a firm's small business size status.²¹ See *Superior Optical Labs, supra* at 8 (dismissing protester's argument that the agency unreasonably failed to refer awardee to the SBA for a size determination where the awardee's proposal did not support the protester's allegations).

The protest is denied.

Edda Emmanuelli Perez
General Counsel

²¹ The protester also challenges the agency's best-value tradeoff decision based on its challenges to the underlying evaluation. Comments & Supp. Protest at 37-38. This assertion is derivative of Team CSI's various complaints that we have rejected. Accordingly, we deny the protester's challenge to the best-value tradeoff. *CORE O'Ahu, LLC*, B-421714, B-421714.2, Aug. 31, 2022, 2023 CPD ¶ 212 at 11.