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**United States Government Accountability Office  
Washington, DC 20548**

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## Decision

**Matter of:** ITT Corporation, Systems Division

**File:** B-310102.6; B-310102.7; B-310102.8; B-310102.9

**Date:** December 4, 2009

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Kevin P. Connelly, Esq., Joseph J. Dyer, Esq., Grace Bateman, Esq., Amanda B. Weiner, Esq., and Joshua C. Drewitz, Esq., Seyfarth Shaw LLP, for the protester. J. Alex Ward, Esq., Edward Jackson, Esq., Damien C. Specht, Esq., and Caroline A. Keller, Esq., Jenner & Block LLP, for Readiness Management Support, L.C., the intervenor.

James L. Yohn, II, Esq., and Mark Christopher, Esq., Department of the Navy, the agency.

John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the decision.

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### DIGEST

1. Agency's favorable consideration of the awardee's experience and performance of the predecessor contract for air traffic control, airfield management, and air traffic control and landing systems operation and maintenance services in Southwest Asia, and specifically in Iraq and Afghanistan, is unobjectionable, where the solicitation specifically provided that experience in performing the same services in the same location would be considered more valuable than experience in other geographic areas.
2. Since the prime contractor is ultimately responsible for successful performance of a contract effort, the agency's evaluation of the awardee's proposal under the solicitation's corporate experience and past performance factors reasonably credited the awardee, the incumbent prime contractor on the predecessor contract, with relevant work and experience, even though a subcontractor on the predecessor contract actually performed much of the relevant work.
3. Agency conducted meaningful discussions, and reasonably determined that certain aspects of the protester's proposal posed risk, where the agency brought the concerns underlying its assessment of risk to the protester's attention during discussions.

4. Agency's cost realism evaluation of the awardee's proposal is unobjectionable where the record reflects that the agency reasonably considered the awardee's and its subcontractors' proposed costs, and the agency's concerns with certain proposed costs were raised during discussions and the agency reasonably determined, based upon the explanations provided, that no upward adjustment of the awardee's proposed costs was needed.

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## **DECISION**

ITT Corporation, Systems Division, of Colorado Springs, Colorado, protests the award of a contract to Readiness Management Support, L.C. (RMS) of Panama City, Florida, under request for proposals (RFP) No. N65236-06-R-0748, issued by the Space and Naval Warfare Systems Center, Department of the Navy, for air traffic control, air field management, and air traffic control and landing systems operation and maintenance support services for facilities in the United States Central Command Air Forces (USCENTAF) in Southwest Asia. ITT argues that the agency's evaluation of proposals and selection of RMS's proposal for award were unreasonable and inconsistent with the terms of the solicitation.

We deny the protests.

The RFP, issued on January 19, 2007, provided for the award of a cost-plus-fixed-fee (CPFF), performance-based contract, with a base period of 1 year with four 1-year option periods. RFP amend. 7, at 2-5. The contractor will be required to provide all personnel, supervision, logistics support, and other items necessary to provide, among other things, air traffic control (ATC) operations and flight planning services, management of airspace and airfields, ATC liaison services, weather observation and forecasting services, air traffic control and landing systems (ATCALS) maintenance, and administrative support and contract management services. *Id.* at 17-18. The solicitation provided that “[t]he services provided through this [RFP] provide mission critical capabilities supporting joint services military personnel, host nation military, and coalition forces, primarily in the USAFCENT AOR [Area of Responsibility].” *Id.* at 18. The RFP identified seven airfields, supporting Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq, as “the primary locations where these services shall be provided.” *Id.* at 17. The RFP added that “[a]lthough the majority of the work is expected to be performed in Southwest Asia, actual tasking may vary as [Department of Defense] mission requirements evolve,” and noted that the number of airfields to be supported may vary and may increase to 10 sites, with the contractor being required to meet the demands for the services as adjusted. *Id.* at 18, 43.

The solicitation also provided that the equipment, operational mission, and staffing requirements would vary from airfield to airfield, and provided, “[f]or planning purposes,” a “typical staffing requirement.” RFP amend. 7, at 43. This typical staffing requirement identified staff by job description, labor category, and the estimated quantity of personnel per job description/labor category required, and

provided for a total estimated staffing per site of 44 personnel. RFP amend. 7, at 43-44.

The solicitation stated that award would be made to the offeror whose proposal represented the best value to the government, considering the following evaluation factors: corporate experience, past performance, personnel qualifications - key personnel, facility information, small business participation, program management plan, and cost/price.<sup>1</sup> The solicitation specified that in determining which proposal represented the best value to the agency, the agency would consider the results of the evaluation under the corporate experience factor “significantly more important than all other technical factors.” RFP at 127. The solicitation added that the program management plan factor would be considered “somewhat more important” than the past performance factor, and that each of the aforementioned factors would be considered “significantly more important” than the facility information factor, which in turn would be considered “slightly more important” than the small business participation factor. RFP at 127. The RFP also provided that while “cost is an important factor and should be considered when preparing proposals,” “[e]valuation factors (other than cost)” would be considered “significantly more important than cost.” RFP at 127.

The RFP included detailed proposal preparation instructions, and requested that proposals include a “business” volume and an “other factors” volume. RFP at 114. The solicitation provided that the business volume was to include the offeror’s cost/price information, as well as the offeror’s professional employees compensation plan and small business subcontracting plan. RFP at 115, 122-25. In this regard, the RFP included, a pricing model that provided designated labor categories and a number of hours per category, which offerors were to complete by providing their proposed rates. RFP amend. 8, attach 4a. The “other factors” volume was to address and provide information regarding the offeror’s corporate experience, past performance, personnel qualifications - key personnel, facility information, small business participation, and program management plan. RFP at 115-22.

The agency received proposals from RMS (the incumbent contractor) and ITT, and after a lengthy process involving the filing and resolution of a number of protests

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<sup>1</sup> Each of the non-cost/price factors, with the exception of the past performance factor, had evaluation subfactors. The program management plan factor had five equally weighted subfactors: providing dedicated personnel, providing plan with innovative cost and performance control, providing organizational plan, providing plan to retain and recruit qualified personnel, and ability to manage routine and emergent operational functions. RFP at 131. The RFP further provided for the evaluation of the offerors’ professional employee compensation and small business subcontracting plans on a pass/fail basis. RFP at 127-32.

with our Office,<sup>2</sup> the issuance of amendments, and conduct of discussions, the agency evaluated the proposals as follows:

	<b>RMS</b>	<b>ITT</b>
Corporate Experience (60 pts)	46 points/Satisfactory <sup>3</sup>	42 points/Satisfactory
Past Performance (14 points)	13 points/Exceptional	12 points/Very Good
Personnel Qualifications (Pass/Fail)	Pass	Pass
Facilities Information (6 points)	6 points/Exceptional	6 points/Exceptional
Small Bus. Participation (5 points)	4 points/Very Good	3 points/Satisfactory
Program Mgmt. Plan (20 points)	17 points/Very Good	15 points/Satisfactory
<b>Total (105 points)</b>	<b>86 points/Very Good</b>	<b>78 points/Satisfactory</b>
<b>Proposed/Evaluated Cost</b>	<b>\$337,898,657</b>	<b>\$337,924,690</b>

<sup>2</sup> The agency initially awarded a contract under the RFP to RMS on August 14, 2007. On August 23, 2007, ITT filed a protest (B-310102) with our Office challenging the propriety of the award. Our Office dismissed this protest as academic on September 17, 2007, because of corrective action taken by the agency. ITT subsequently filed a protest (B-310102.2) on April 4, 2008, challenging the terms of the solicitation as revised by the agency, and filed another protest (B-310102.3) with our Office on April 14, 2008, asserting that the agency failed to conduct meaningful discussions with ITT. On April 22, 2008, our Office dismissed as premature ITT's protest (B-310102.3) challenging the adequacy of discussions. On May 27, 2008, our Office also dismissed as premature protests filed by ITT on May 16, 2008 (B-310102.4), challenging the adequacy of discussions, and on May 22, 2008 (B-310102.5), challenging the reasonableness of the evaluation of proposals, given that the agency had not yet selected an offeror for award. On May 28, 2008, our Office dismissed as academic ITT's protest (B-310102.3) challenging the terms of the solicitation, as a result of an agreement reached by the parties to the terms of an amendment to the solicitation to be issued by the agency.

<sup>3</sup> As indicated, proposals received point and adjectival scores under each evaluation factor and overall. The possible overall adjectival ratings and their corresponding point scores were "exceptional" (95-105 points), "very good" (84-94 points), "satisfactory" (63-83 points), and "unacceptable" (less than 63 points). Agency Report (AR), Tab 1B, Source Selection Plan, Evaluation Methodology, at 2.

AR, Tab 6C, Business Clearance Memorandum (BCM), June 8, 2009, at 6. The source selection authority (SSA) determined that RMS's proposal, which was higher-rated and slightly lower in cost/price in comparison to ITT's proposal, represented the best value to the government, and a contract was awarded to that firm. AR, Tab 6D, SSA Memorandum (June 1, 2009), at 7. After requesting and receiving a debriefing, ITT filed these protests.

The protester raises numerous arguments regarding the agency's evaluation of proposals and selection of RMS's proposal for award. We have specifically addressed here what we believe are the protester's primary arguments, although we have considered all arguments raised by the protester.

The evaluation of proposals is a matter within the discretion of the contracting agency, and in reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable, in accord with the evaluation factors set forth in the RFP, and whether the agency treated offerors equally in its evaluation of their respective proposals and did not disparately evaluate proposals with respect to the same requirements. Hanford Env't Health Found., B-292858.2; B-292858.5, Apr. 7, 2004, 2004 CPD ¶ 164 at 4.

ITT first argues that the agency's evaluation of its and RMS's proposals under the corporate experience evaluation factor was inconsistent with the terms of the solicitation and unreasonable. The protester asserts that the agency, in evaluating proposals under this factor, gave undue weight to whether the offeror's experience included contracts performed in Iraq or Afghanistan, and improperly credited RMS with corporate experience attributable to one of its subcontractors. Protest (B-310106.6) at 16-20; Protester's Comments at 6-19; Protester's Supp. Comments at 2-11.

The RFP informed offerors that under the most heavily weighted corporate experience factor "[t]he Government [would] evaluate each offeror's (prime and significant subcontractors) experience," in order to "determine the degree to which the offeror has previously encountered the kinds of work, uncertainties, challenges, and risk that it is likely to encounter under the prospective contract," and to "develop insight into the offeror's relative capability and the relative risk associated with contracting with the offeror." RFP at 128. The solicitation stated that the agency would "evaluate the work performed for each reference for similarity and relevance to the work required under the contemplated contract," and that "[t]he more similar and relevant the work performed is to the contemplated work, the more valuable the experience is to the Government." *Id.* The solicitation specifically noted in this regard that "[e]xperience in [USCENTAF] [ATC], Airfield Management and [ATCALS] [AOR], specifically Iraq and Afghanistan, is more valuable than experience in other areas." RFP amend. 4, at 15. The solicitation further stated that in order to be considered a "significant subcontractor" for evaluation purposes, the

subcontractor must be proposed to perform a minimum of 33 percent of the total proposed labor hours. RFP at 117.

The record reflects that the agency evaluated RMS's proposal under the corporate experience evaluation factor as "satisfactory," with the proposal receiving 46 of 60 available points, based on five contract references submitted by RMS as the prime contractor and five references submitted by RMS's "significant subcontractor" Midwest Air Traffic Control Service, Inc. AR, Tab 6C, BCM, at 23. The agency noted, for example, that with regard to RMS's performance of the predecessor contract as the incumbent contractor, RMS's proposal "demonstrated current experience within the . . . AOR in Tower, Radar, Non-radar and Air Field Management as well as managing the Air Traffic Control and Landing Systems maintenance support services," and that this constituted a "strength" given that it demonstrated an "understanding [of] the tempo of operations, as well as addressing the additional requirements and attributes required just to get the job done in an environment such as the AOR presents." *Id.*; see AR, Tab 6A, Technical Evaluation Board Report (TEB Report) (Mar. 3, 2009), at 12. The agency's evaluation here included other positive comments due to RMS's 11 years of experience as the incumbent contractor, including the agency's determination that this aspect of RMS's proposal was a strength in that it "demonstrated the ability to solve the unique supply support problems" that result from the environment in which the incumbent contract was performed. AR, Tab 6C, BCM, at 23; see AR, Tab 6A, TEB Report, at 12. In this regard, the agency commented that "[t]he current solicitation's performance work statement is based largely on the current contract's requirements," and that RMS had successfully performed that contract "as the incumbent for the past 11 years," including its handling of more than 1.3 million air traffic control tower transactions, with a number of these including air traffic control "transactions recorded at the Kabul Area Control Center, an activity that allows international flights over Afghan airspace." AR, Tab 6C, BCM, at 30. This verbiage, recognizing RMS's successful performance of the predecessor contract under the somewhat unique circumstances presented by the AOR, and specifically, operations in Iraq and Afghanistan, was repeated by the SSA in making her source selection decision, which also found that although both RMS and ITT received "satisfactory" ratings under the corporate experience factor, "the RMS Team provides a more comprehensive and germane level of corporate experience than ITT's Team." AR, Tab 6D, SSA Memorandum, at 4-5.

It is clear from the record that RMS's successful performance of the predecessor contract was considered favorably by the agency both during its evaluation of the proposals and its source selection, and was considered more favorably by the agency than ITT's experience performing similar work outside of the AOR and outside of Iraq and Afghanistan. However, we disagree with the protester that this aspect of the agency's evaluation was inconsistent with the terms of the solicitation, particularly given the solicitation's statement that "[e]xperience in [USCENTAF] [ATC], Airfield Management and [ATCAL]S [AOR], specifically Iraq and Afghanistan,

is more valuable than experience in other areas.” RFP amend. 4, at 15. Indeed, our Office has recognized that an agency, even under generally-worded experience criteria, may properly consider the extent to which offerors have experience directly related to the work required by the RFP. Systems Integration & Dev., Inc. B-271050, June 7, 1996, 96-1 CPD ¶ 273 at 4. We also have recognized that a particular offeror may possess unique advantages or capabilities due to its prior experience under a government contract and that the government is generally not required to attempt to equalize competition or compensate for it. Crofton Diving Corp., B-289271, Jan. 30, 2002, 2002 CPD ¶ 32 at 6. Here, the agency, consistent with the corporate experience evaluation factor set forth in the solicitation, favorably considered RMS’s successful performance of the predecessor contract in its evaluation of the proposals and source selection, and we find nothing in the record evidencing that the agency gave RMS’s experience as the incumbent contractor “undue weight.”

The protester also contends that the agency’s evaluation of RMS’s proposal under the corporate experience factor is fatally flawed, given that the ATCALS maintenance work was performed under the predecessor contract by Lockheed Martin Information Technology, a subcontractor to RMS under that contract and a proposed subcontractor for this effort, rather than by RMS itself. Protester’s Comments at 2-3, 11-16; Protester’s Supp. Comments at 2-11. The protester asserts here that “[i]n reality, RMS performs neither actual ATC services or the ATCALS maintenance services,” but rather, as it did on the predecessor contract, “puts together a team to perform this type of work,” with one subcontractor performing ATC operations, and another subcontractor, here Lockheed Martin, performing the ATCALS services. Protester’s Comments at 12. The protester argues that Lockheed Martin’s performance under the predecessor contract was improperly considered by the agency during its evaluation of RMS’s proposal under the corporate experience evaluation factor, because Lockheed Martin is proposed to perform approximately [DELETED] percent of the total labor hours, rather than a minimum of 33 percent of the labor hours that were required by the RFP to allow for its consideration as a “significant subcontractor” for evaluation purposes under this factor. Protester’s Comments at 33; Protester’s Supp. Comments at 4; see RFP at 117.

As reflected throughout the evaluation documentation, the agency clearly recognized RMS’s proposed role in the performance of the contract (as well as the proposed roles of Midwest and Lockheed Martin), including that “RMS proposes to do less than [DELETED] of the estimated labor hours.” AR, Tab 6C, BCM, at 16. In fact, during discussions “RMS was requested to address excessive pass-through and their value-added as a prime [contractor].”<sup>4</sup> Id. The agency noted that, in responding to

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<sup>4</sup> As recognized by the agency during its evaluation of RMS’s proposal, Defense Federal Acquisition Regulations (DFARS) § 252.215-7004(b) provides that the “Government will not pay excessive pass-through charges,” and that “[t]he Contracting Officer shall determine if excessive pass-through charges exist.” DFARS  
(continued...)

these discussions, “RMS advised that they have been performing this same work, as prime, for many years” and that it “manages the activities of their subcontractors to ensure that their work meets all requisite quality standards.” Id. The agency’s evaluation includes a lengthy narrative detailing RMS’s role in both the predecessor contract and as proposed for the contract to be awarded under the RFP here, and notes, among other things, that “[u]nder RMS management, Lockheed Martin, another subcontractor, has consistently maintained aging, and in some cases obsolete, [United States Air Force] systems at a 99+ percent system availability rate.” Id. at 17. This aspect of the agency’s evaluation includes numerous findings as to the value RMS added to the performance of the predecessor contract that is consistent with its proposed role here, and concludes that “RMS is providing value and therefore [the agency] does not consider the . . . pass-through as excessive.” Id.

The record also clearly provides that the agency recognized that Lockheed Martin was proposed to perform approximately [DELETED] percent of the estimated labor hours, and that Lockheed Martin therefore could not be considered a “significant subcontractor” under the terms of the RFP. AR, Tab 6C, BCM, at 15, 20. The cognizant contracting officer explains that because of this, she removed the two contract references pertaining to Lockheed Martin from the section of RMS’s proposal addressing the corporate experience factor prior to providing RMS’s proposal to the TEB for evaluation. Agency Supp. Report, attach., Contracting Officer’s Declaration (Oct. 29. 2009), at 2-3. The agency also explains, and the record reflects, that in evaluating RMS’s proposal under the corporate experience factor, the agency did in fact consider RMS’s performance of the predecessor contract.

In our view, the agency’s evaluation was consistent with the terms of the solicitation and reasonable. As the above discussion demonstrates, the agency was aware of both RMS’s and Lockheed Martin’s roles in the performance of the predecessor contract, as well as the proposed roles of those firms in the contract to be awarded under this RFP. It is also clear that the agency did not consider under the corporate experience factor any contract references provided for Lockheed Martin. With regard to the propriety of the agency’s consideration of RMS’s performance of the incumbent contract, and conclusion that it reflects corporate experience in a number of areas, including the ATCALs services that were actually performed under the

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§ 252.215-7004(a) provides that “‘Added value’ means that the Contractor performs subcontract management functions that the Contracting Officer determines are a benefit to the Government,” and provides that “‘Excessive pass-through charge,’ with respect to a Contractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government by the Contractor or subcontractor that is for indirect cost or profit on work performed by a subcontractor (other than charges for the costs of managing subcontracts and applicable indirect costs and profit based on such costs).”



predecessor contract by RMS's subcontractor Lockheed Martin, our Office has held that an agency may properly credit the prime contractor with experience involving functions performed, even if the particular work was actually performed by a subcontractor under the prime contractor's supervision. NV Servs., B-284119.2, Feb. 25, 2000, 2000 CPD ¶ 64 at 15 n.17; Battelle Mem'l Inst., B-278673, Feb. 27, 1998, 98-1 CPD ¶ 107 at 22. This is so because of the general rule that a prime contractor under a government contract is responsible for the performance of its subcontractors. We are aware of no requirement that an agency, in conducting its evaluation of an offeror's corporate experience (or past performance), determine for each reference provided in the offeror's proposal the precise work performed by the offeror as the prime contractor and that performed by any subcontractors, and then exclude for evaluation purposes that work that had been performed by any of the subcontractors. Accordingly, we have no basis to object to the agency's determination that it could properly consider RMS's performance of the incumbent contract, and credit RMS with experience in all facets of contract performance, including ATCALs services, even though those services had actually been performed under the predecessor contract and under RMS's supervision by Lockheed Martin as RMS's subcontractor.

The protester also argues that the agency's evaluation of its and RMS's proposal under the corporate experience factor was unreasonable in that RMS's proposal received more points than did ITT's. The protester points out here that its proposal was evaluated by the TEB under the corporate experience factor as having five "strengths" and five "weaknesses," whereas RMS's proposal was evaluated by the TEB as having two "strengths" and one "weakness." Protester's Comments at 5-10; Protester's Supp. Comments at 5. The protester, in addition to challenging the propriety of the agency's conclusions regarding the "weaknesses" found in its proposal under this factor, argues that the evaluation cannot be considered reasonable because it does not adequately document why its proposal, which was evaluated as having three more "strengths" than RMS's proposal, received a lower point score under the corporate experience factor. Protester's Comments at 5, 7.

With regard to the specific weaknesses noted by the agency in evaluating ITT's proposal, we note that much of ITT's arguments in this regard are based upon its view that the agency improperly emphasized corporate experience in performing similar services in Iraq and Afghanistan, and improperly attributed Lockheed Martin's ATCALs maintenance services experience to RMS. For example, the protester contends that the agency "assessed a weakness to ITT's proposal for minimally addressing ATCALs systems" under the corporate experience factor, but did not assess a similar weakness with regard to RMS's proposal, even though RMS, as argued by the protester, "had no experience performing ATCALs maintenance," given the protester's erroneous view that any such experience in this area could only be attributed to Lockheed Martin, and not RMS, under the terms of the RFP. Protester's Comments at 19. The protester makes a similar argument with regard to the agency's assessment of weakness in ITT's proposal under the corporate

experience factor for demonstrating “*limited* experience in performing defined Airfield Management duties,” noting that RMS “could not be appropriately evaluated as showing experience *performing* any ATCALS maintenance, much less in Afghanistan, yet RMS did not receive any weaknesses.” Protester’s Comments at 19; see AR, Tab 6C, BCM, at 29. Given that much of ITT’s argument regarding the propriety of the agency’s evaluation under the corporate experience factor of its proposal, as well as RMS’s proposal, is predicated on its contention that the agency improperly credited RMS with ATCALS experience, where that work was actually performed under the predecessor contract by Lockheed Martin under RMS’s supervision, has already been addressed above, we need not address it again here, except to state that we disagree with the protester’s contentions and find this aspect of the agency’s evaluation to be unobjectionable.

As to the remainder of the protester’s arguments regarding the relative merits of its proposal and RMS’s proposal under the corporate experience factor as evidenced by the adjectival rating and points assigned by the agency to the proposals, and whether the evaluation was adequately documented, we have consistently recognized that ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision-making in the procurement process. Where the evaluation and source selection decision reasonably consider the underlying basis for the ratings, including the advantages and disadvantages associated with the specific content of competing proposals, in a manner that is fair and equitable and consistent with the terms of the solicitation, the protester’s disagreement over the actual numerical, adjectival, or color ratings is essentially inconsequential in that it does not affect the reasonableness of the judgments made in the source selection decision. Similarly, the evaluation of proposals and consideration as to their relative merit should be based upon a qualitative assessment of proposals consistent with the evaluation scheme, and should not be the result of a simple count of the relative strengths and weaknesses assigned to the proposals during the evaluation process. Kellogg Brown & Root Servs., Inc., B-298694.7, June 22, 2007, 2007 CPD ¶ 124 at 5.

As such, the fact that ITT’s proposal was evaluated as having five strengths and five weaknesses by the agency, and RMS’ proposal was evaluated as having two strengths and one weakness by the agency under the corporate experience factor, or that ITT’s proposal received 42 points under whereas RMS’s proposal received 46 points under this factor, are not necessarily the operative considerations in our review of the reasonableness of the agency’s evaluation. Instead, the primary consideration is whether the agency’s ultimate conclusion that RMS’s proposal, as reflected by the evaluation and source selection decision, was slightly superior to ITT’s proposal under the corporate experience factor, was reasonably based and consistent with the terms of the solicitation. Based upon our review of the record, which adequately documents the contemporaneous judgments of the agency evaluators as well as the SSA, the agency’s ultimate conclusion in this regard is, in our view, unobjectionable.

The protester next argues that the agency's evaluation of RMS's proposal under the past performance evaluation factor was unreasonable. The protester primarily asserts that the agency erred in considering RMS's performance of the predecessor contract under the past performance factor because, again, the actual ATCALS work was performed under the predecessor contract by Lockheed Martin, rather than RMS itself. Protester's Comments at 22-23; Protester's Supp. Comments at 14-15. The protester points out that the RFP informed offerors under the past performance factor that "[t]he Government will assess each offeror's and proposed significant subcontractor's past performance," RFP at 128, and because of this, the protester again alleges that Lockheed Martin cannot properly be considered a significant subcontractor under the terms of the solicitation. The protester maintains that "[t]he Government's failure to take into account that RMS has not shown any past performance experience in ATCALS maintenance has resulted in a flawed past performance evaluation that unreasonably inflated RMS' past performance score." Protester's Comments at 23; see Protester's Supp. Comments at 14-15.

As set forth previously, it was permissible for the agency to credit RMS with experience involving ATCALS maintenance services, even though those services had actually been performed by its subcontractor Lockheed Martin under RMS's supervision. NV Servs., supra, at 15 n.17; Battelle Mem'l Inst., supra, at 22. More importantly, we note the protester's argument here is predicated on its erroneous view that the evaluation of proposals under the past performance factor would include an assessment of whether the references provided by the offeror involved the same or similar services. Such was not the case. In contrast to the corporate experience factor, which specifically provided that "[t]he evaluation will be a subjective assessment of the offeror's experience with work similar in nature, scope, complexity, and difficulty to that which must be performed under the prospective contract contemplated by this solicitation," the past performance factor stated only that the past performance "assessment will be an unbiased judgment about the quality of an offeror's past performance" based upon "the degree to which an offeror satisfied its customers in the past and complied with the statement of work, contract schedule, and contract terms and conditions." RFP at 128-129. That is, the past performance factor did not limit the performance considered to work similar in nature, scope, complexity, and difficulty to that which is the subject of this RFP, or require some type of showing that the offeror had performed such work before. Given that the predicates underlying the protester's arguments here are misplaced, this aspect of the ITT's protest is without merit.

The protester also argues that the agency's evaluation of its proposal under the providing dedicated personnel and organizational plan subfactors to the program management plan factor was unreasonable.

The record reflects that during its evaluation of proposals, the agency became concerned with ITT's proposed program management plan as evaluated under the providing dedicated personnel and organizational plan subfactors, in that ITT

proposed to have its [DELETED] also serve as ITT's Site Managers. AR, Tab 2C, ITT Proposal (July 18, 2008), vol. 1, Factor F, at 15. The agency advised ITT during discussions that this aspect of its proposed approach had been "evaluated as having an adverse impact on the [DELETED] ability to accomplish his/her primary, critically-defined duties" as set forth in the RFP "while serving as site manager for the day-to-day direct supervision of assigned service providers (ATCALs/ATC) or subcontractors' coordination as each site." AR, encl. 21, Agency Letter to ITT (Dec. 19, 2008), encl. 2, at 2. The record further reflects that this issue was raised by the agency during oral discussions conducted by teleconference, with the agency adding that "[i]f ITT believes that this is not an unsound operational approach, tell us why." AR, encl. 23, ITT Letter to Agency/Record of Teleconference (Jan. 9, 2009), encl. 1, at 5. This concern was again repeated by the agency in a subsequent e-mail to ITT, where the agency advised ITT that, as provided by the agency in its earlier discussions letter, while "[i]t is the contractor's responsibility to propose how any site management functions will be performed, however, . . . the government considers the proposal of [DELETED] as performing any site management functions as an unsound approach due to the critical nature" of the airfield management services as set forth in the RFP. AR, encl. 22, Agency Letter to ITT (Jan. 15, 2009), at 2.

The record reflects that in response to the agency's concerns here, ITT shifted the Site Manager responsibilities from the [DELETED] to the [DELETED]. Specifically, ITT's final revised proposal provided, in part, as follows:

In addition to executing his normal [DELETED] duties depicted in [Department of Defense], Air Force Instructions and Army Regulations, [DELETED] is dual-hatted as the Site Manager. In this critical capacity, he ensures Airfield Operations are executed in accordance with contract specifications. He attends all Government meetings, completes required [contract data requirements lists] and reports to the Government, and ensures personnel qualifications and training are kept current for Air Traffic Controllers and airfield personnel. He is ITT's single point of contact for site-specific issues, daily airfield operations, coordination of special Government requests, and safe execution of surge requirements.

AR, Tab 2D, ITT Proposal (Jan. 23, 2009), vol. 1, Factor F, at 18-19.

The agency evaluated this aspect of ITT's proposal under the providing dedicated personnel and organizational plan subfactors to the program management plan factor as posing "risk" to the successful performance of the contract. AR, Tab 6A, TEB Report, at 9; Tab 6C, BCM, at 31. The agency specifically found in this regard as follows:

Having [DELETED] burdened with the additional Site Manager duties could result in performance risk in the accomplishment of their primary, and critical duties as the [DELETED]. These are not new risks. These risks were previously identified and have been topics of discussion in the Final Proposal Revision (FPR). ITT either failed to adequately address these risks in its latest FPR submittal or purposefully determined to maintain a management structure the Government considers problematic.

AR, Tab 6C, BCM, at 31; see Tab 6A, TEB Report, at 9-10; Tab 6D, SSA Memorandum, at 5.

The protester argues that its placement of the site management tasks first with the [DELETED] and then with the [DELETED] was “logical,” and that the agency’s expressed concerns with this aspect of its proposal were not reasonably based. Protest at 29; see Protester’s Comments at 32. The protester asserts that it “made the decision to ‘dual hat’ its Site Manager with another position based on its extensive experience performing large-scale contracts in geographically dispersed and remote locations all over the world.” Protester’s Comments at 34-35. The protester also complains that the agency failed to provide adequate guidance as to how to staff a site manager position either in the solicitation or during discussions, and argues that the agency failed to conduct meaningful discussions with ITT because the agency provided “repeatedly vague responses . . . to ITT” regarding this aspect of its proposal. *Id.* at 34.

Consistent with the principle, stated above, that the evaluation of proposals is properly within the discretion of the contracting agency, and that our Office will not substitute our judgment for that of the agency, it is equally well-settled that a protester’s mere disagreement with the agency’s judgment is insufficient to establish that an evaluation was improper or otherwise unreasonable. Marinette Marine Corp., B-400697 et al., Jan. 12, 2009, 2009 CPD ¶ 16 at 11-12. Here, based upon our review of the record, we have no basis to object to the agency’s determination that ITT’s approach to providing the site management responsibilities, as set forth above, created risk regarding the performance of the primary responsibilities of the [DELETED], which the agency had identified as critical. Although the protester clearly disagrees with the agency’s position here, we find ITT’s contentions regarding the merits of its approach to constitute nothing more than the protester’s mere disagreement with the agency.<sup>5</sup> *Id.*

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<sup>5</sup> The protester asserts that RMS, in certain circumstances, appears to also have proposed to have certain personnel [DELETED] perform site management responsibilities, yet this feature of its proposal was not downgraded. However, the record shows that RMS’s approach was significantly different than ITT’s because, (continued...)

With regard to ITT's complaint that the agency's discussions regarding this issue were vague or otherwise inadequate, we note that the requirement that discussions be meaningful does not obligate an agency to spoon-feed an offeror. ITT Fed. Sys. Int'l. Corp., B-285176.4; B-285176.5, Jan. 9, 2001, 2001 CPD ¶ 45 at 7. That is, in order for discussions to be meaningful, the agency need only lead an offeror into the areas of its proposal requiring amplification or revision. Id. Here, as set forth above, the record shows that during discussions the agency clearly made ITT aware (on more than one occasion) of its concerns with ITT's approach of having site management responsibilities being performed by certain specified senior on-site positions, and as such, fulfilled its obligation to conduct meaningful discussions in this regard. The agency was not obligated, as the protester indicates, to suggest a proposed alternate approach to the protester for the fulfillment of what the protester considered to be site management responsibilities.

The protester also argues that the agency's evaluation of RMS's proposal under the small business participation factor was inconsistent with the terms of the solicitation. The protester points out that RMS's proposal was evaluated as "very good," receiving four of the five available points under the small business participation factor, based upon RMS's proposed small business participation of "[DELETED]% participation in direct labor," while "identifying numerous small businesses (SB) and small disadvantaged business (SDB) firms that will perform in various aspects of the [statement of work] during performance of the contract." AR, Tab 6A, TEB Report, at 14. The protester contends that because the solicitation "clearly advised offerors . . . that the evaluation of [the small business participation factor] would be limited to a determination of the extent of the prime contractor's commitment to small business participation," and RMS's proposal also provides that RMS will perform less than [DELETED] percent of the total direct labor on the contract, RMS, as the prime contractor, could not possibly subcontract [DELETED] percent of the direct labor hours proposed. Protester's Comments at 37-38. The protester thus argues that "RMS's proposal is either inaccurate, noncompliant, or both." Id. at 40. The protester notes that the record reflects that one of the four total points RMS's proposal received under the small business participation factor was because of this relatively high percentage of small business participation, as compared to ITT's proposed [DELETED] percent of direct labor level of small business participation, and concludes that "[t]he Navy's award of an additional point to RMS during the evaluation of [the small business participation factor] based on its stated percentage of small business subcontracting was therefore unreasonable and prejudicial to ITT." Protester's Supp. Comments at 28; see Protester's Comments at 39.

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(...continued)

among other things, it did not involve site management responsibilities being performed by [DELETED].

We agree with the agency that the protester's argument here is based on an erroneous interpretation of the RFP. In this regard, the solicitation provided under the small business participation factor that, among other things, "[o]fferors would be evaluated on the extent to which they identify and commit to small business participation in the contract." RFP at 130. The solicitation also stated that one subfactor of this factor concerned the "[i]dentification of specific small business participation in contract performance and the Percentage of estimated total acquisition dollar value to be performed by such businesses." *Id.* The agency maintains, and we agree, that contrary to ITT's view, the solicitation did not limit the agency's evaluation of the percentage of small business participation to that proposed by the prime contractor only. In this regard, the agency notes that the small business participation factor does not include the term "prime contractor," but rather references "offeror," and in the agency's view, "[i]f the offeror represents a single prime or a single prime with multiple subcontractors, it is the offeror's responsibility to develop a small business participation plan that promotes small business participation in the contract," rather than just "the prime contractor's portion of the contract." Agency Supp. Report at 21. Based on our review, we find the agency's evaluation under this factor, which considered small business participation whether contracted for by the prime contractor or its subcontractors, to be reasonable and consistent with the RFP.

ITT protests that the agency's evaluation of RMS's cost proposal was unreasonable. The protester notes that the agency's initial award to RMS on August 23, 2007, was at an evaluated cost/price of \$391,998,088, in comparison to ITT's evaluated cost/price of \$340,251,240, and argues that the record does not provide an adequate explanation for RMS's reduction to an evaluated cost/price of \$337,898,657 in its January 2009 proposal.<sup>6</sup> Protest at 12-15; Protester's Comments at 43-44. The protester argues that the agency unreasonably accepted as realistic a reduction in MidWest's proposed labor rates of approximately \$[DELETED] per hour (which accounted for \$[DELETED] of the reduction in total costs), and a reduction of approximately [DELETED] percent in Lockheed Martin's proposed fringe benefit rate (which accounted for approximately \$[DELETED] of the reduction in total costs). Protester's Comments at 45-46; *see* AR at 12-13. The protester adds that the agency should also have adjusted RMS's proposed costs upwards because RMS, for the performance of its portion of the solicitation's requirements (as opposed to the requirements to be performed by RMS's subcontractors), failed to propose sufficient

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<sup>6</sup> The protester recognizes that the actual cost/price reduction should properly be considered as approximately \$42 million, rather than approximately \$52 million as indicated, given the agency's amendment of the solicitation to "eliminate a \$10 million firm-fixed price plug number." Protester's Comments at 44 n.33; *see* RFP amend. 7, at 3-5.

personnel given the number of personnel RMS had “actually required . . . to perform the work in 2008” under the predecessor contract.<sup>7</sup> Protester’s Comments at 44.

When an agency evaluates proposals for a cost reimbursement contract, an offeror’s proposed costs are not considered controlling, because regardless of costs proposed, the government is bound to pay the contractor its actual and allowable costs. Federal Acquisition Regulation (FAR) §§ 15.305(a)(1), 15.404-1(d). Consequently, a cost realism analysis must be performed by the agency to determine the extent to which an offeror’s proposed costs represent what the contract should cost, assuming reasonable economy and efficiency. FAR § 15.404-1(d)(2). A cost realism analysis is the process of independently reviewing and evaluating the specific cost elements of each offeror’s cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of performance and materials described in the offeror’s proposal. FAR § 15.404-1(d)(1). The evaluation of competing cost proposals requires the exercise of informed judgment by the contracting agency, since it is in the best position to assess the realism of the cost and technical approaches and must bear the burden resulting from a defective cost realism analysis. An agency is not required to conduct an in-depth cost analysis, see FAR § 15.404-1(c), or to verify each and every item in assessing cost realism; rather, the evaluation requires the exercise of informed judgment by the contracting agency. Cascade Gen., Inc., B-283872, Jan. 18, 2000, 2000 CPD ¶ 14 at 8. Further, an agency’s cost realism analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the rates proposed are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation. See SGT, Inc., B-294722.4, July 28, 2005, 2005 CPD ¶ 151 at 7; Metro Mach. Corp., B-295744; B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 10-11. Because the contracting agency is in the best position to make this determination, we review an agency’s judgment in this area only to see that the agency’s cost realism evaluation was reasonably based and not arbitrary. Hanford Env’tl. Health Found., supra, at 9-10.

Contrary to the protester’s general assertion, the record reflects the agency’s concern with RMS’s reduction from the previously evaluated proposed cost/price in its 2007 proposal to the cost/price reflected in its final revised proposal submitted in 2009. Specifically, the agency issued a number of written discussion questions to RMS which raised in a general matter the significant reduction in RMS’s proposed cost/price, as well as a number of specific cost elements that were reduced and which comprised the approximately \$42 million difference. AR, encl. 9, Agency Letter to RMS (Dec. 19, 2008), encl. 1, at 1. The record reflects that the agency

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<sup>7</sup> The agency explains in its report, and the protester does not specifically challenge, the other elements which constituted the remaining reductions in RMS’s evaluated costs. AR at 12-13.



carefully considered the responses provided by RMS regarding each aspect of its reduction in proposed costs, and ultimately concluded that RMS's proposed and evaluated costs, which totaled \$337,898,657 (as compared to ITT's proposed and evaluated costs totaling \$337,924,690) were realistic.

With regard to the specific arguments raised by the protester regarding RMS's reduction in proposed costs and the agency's cost realism analysis, the protester, as set forth above, points out that RMS's significant subcontractor "Midwest lowered its base hourly wage by \$[DELETED] an hour." Protester's Comments at 45. The protester asserts that this proposed wage rate reduction is unrealistic, and that the agency should have upwardly adjusted RMS's proposed costs by approximately \$[DELETED] to essentially restore Midwest's proposed labor rates to their previous levels. Protester's Comments at 45-46; Protester's Supp. Comments at 33. The protester points out that as reflected by the record, Midwest is "already seeing attrition at [DELETED]% before it implemented the pay cut," and that "it appears reasonable to conclude that Midwest would be required to pay a higher rate just to keep its attrition rate at 37% for this contract." Protester Comments at 45.

The record reflects that this aspect of RMS's proposal was the subject of discussions, with the agency expressing to RMS its concern during discussions that:

Midwest may not be able to sustain an employee workforce overseas at the proposed lower wage rates when employee attrition on the current contract is so high. The Government is concerned that the understatement of the labor rates in these categories by as little as \$[DELETED] each would result in an understatement of the proposed price by \$[DELETED]. Please explain how you will be able to obtain and retain qualified employees from a self-acknowledged shrinking labor pool with a reduction in labor rates, by as much as \$[DELETED] per hour in some cases, from your initial proposal.

AR, encl. 9, Agency Letter to RMS (Dec. 19, 2008), encl. 1, at 1.

In response, Midwest, through RMS, acknowledged that "it did lower the base hourly wage by \$[DELETED] per hour," which represented "cash in lieu of a medical fringe," because "certain countries/bases mandate that [the contractor] provide employees with medical coverage," and it was therefore inappropriate to include additional base pay for medical. Midwest explained, however, that it "remain[ed] abundantly confident that [it] will be able to recruit and retain qualified personnel as these rates are being paid right now," and that its "proposed rate structure is based on actual payroll records and all rates can be supported using those records." Midwest further explained in this regard that it had recently "changed from an annual salary structure to an hourly wage rate for our employees," and that "[t]he transition from annual salary to hourly rates, at the rates described, has resulted in a slight increase to annual wages when uplifts and incentive bonuses are taken into

consideration.” Midwest added here that “[t]his has enhanced our ability to recruit and retain qualified personnel and our ability to continue assuring continuity of services at each location we serve.” Midwest finally noted here that “[a]ttribution, while seemingly high, is largely due to personnel returning home after their agreements are satisfied; losses incurred due to [Federal Aviation Administration] and [Department of Defense] recruiting; personnel who have grown wary of increased combat conditions and other insurgent activities; or personal problems that must be accommodated.” Midwest concluded in this regard that “[t]o the best of our information, knowledge and belief, we have not had a single person leave because they wanted more money.” AR, encl. 11, RMS FPR, attach. A, Issue Responses, at 5.

As indicated above, the record reflects the agency’s reasonable review of RMS’s proposal and inquiry during discussions into the realism of Midwest’s proposed rates. In addition to the above explanation provided by Midwest as the result of discussions, the record reflects that Midwest also provided the agency with a number of resumes of personnel that included their current labor rates, with the agency finding that the current base labor rates were in most instances “[DELETED] than the proposed category rate.” AR, Tab 6C, BCM, at 19. The record reflects that the agency, while initially finding that Midwest’s reduction in labor rates “raised serious concerns from both a cost and a performance standpoint,” ultimately concluded as a result of the explanations provided by Midwest during discussions, including the information set forth above, that Midwest had addressed the agency’s concerns, and that because of this, no adjustments needed to be made to Midwest’s proposed labor rates in the cost realism analysis. *Id.* at 18. Based upon the record here, we cannot find the agency’s determinations in this regard to be unreasonable.

The protester argues that the agency failed to reasonably evaluate Lockheed Martin’s “reduction in its fringe benefit rate by approximately [DELETED]” from the submission of RMS’s initial proposal to its second final revised proposal. Protester’s Comments at 46. The protester contends that “[t]he Record does not contain any indication that this reduction was considered by the Navy, particularly regarding whether it would have any impact on [Lockheed Martin’s] ability to attract or retain employees.” *Id.*

The record reflects that during discussions the agency asked a general question of RMS regarding its ability to provide the level of service proposed at its proposed costs, and was informed by RMS that Lockheed Martin had been able to propose lower costs “by using a slightly lower out-year salary escalation factor and through the use of a different corporate bidding entity that provides a more competitive burden structure resulting in lower labor category rates.” AR, encl. 11, RMS FPR, attach. A, Issues Responses, at 4. The agency provides a detailed explanation as to its consideration of the information provided by Lockheed Martin, and notes among other things that it found at the time that Lockheed Martin’s “rates were [DELETED].” AR, encl. 12, Declaration of Cost and Price Analyst, at 7. Under the

circumstances here, which include ITT's failure, despite its access under our protective order to RMS's proposal and all relevant evaluation documents, to provide any explanation, absent the above, as to why this aspect of the agency's evaluation was unreasonable, we find the protester's assertion here to again constitute nothing more than its mere disagreement with the agency. See Protester's Supp. Comments at 32.

With regard to the number of full-time equivalent (FTE) RMS personnel proposed for performance of the contract, the protester points out that under the predecessor contract, as evidenced by the record, RMS had provided approximately [DELETED] FTEs for 2008, but, in contrast, had proposed "a total of [DELETED] FTEs" to perform the same work under the contract to be awarded here. Protester's Comments at 44. The protester asserts, without any further explanation, that "RMS should have been either significantly downgraded during the technical evaluation, or RMS should have had the costs of an additional [DELETED] FTEs added to its total proposed costs during the Government's price cost realism analysis." Protester's Comments at 44.

Although ITT provides little explanation as to this basis of protest, the record reflects that the positions and hours referred to by ITT as being understated in RMS's proposal concern RMS's proposed staffing level for non-deployed personnel. We note in this regard that RMS's proposal here provides for a total of [DELETED] FTEs, with [DELETED] FTEs to be provided by RMS and [DELETED] of those FTEs to be provided by RMS's subcontractors. AR, Tab 3D, RMS FPR, attach. 4A, at 3. Additionally, we note that this number of personnel appears to exceed the number of personnel estimated by the agency for these functions. Since the record reflects that the agency analyzed RMS's proposal, and determined that the staffing level proposed by RMS was sufficient to perform the requisite tasks, and because ITT has failed, despite its access under our protective order to RMS's proposal and all relevant evaluation documents, to provide any further explanation as to why this aspect of RMS's staffing plan was inadequate, we find the protester's assertion here to again constitute nothing more than its mere disagreement with the agency.

The protester next points out that RMS, through its subcontractor Midwest, "proposed a small fraction for Aviation Liability Insurance in comparison to ITT's subcontractor," and argues that the agency's cost realism evaluation is therefore flawed because "[t]here is no indication that the Government assessed whether [Midwest's] proposed cost was realistic given [ITT subcontractor's] proposal." Protest (B-310102.8) at 9.

The solicitation stated that "the offeror shall provide proof of insurability to hold the Government harmless in the amount of at least \$10 million." RFP at 47. The record reflects that RMS, through its subcontractor Midwest, met this requirement, but explained generally in its proposal that the amounts of liability insurance coverage it currently has in place "vary between \$[DELETED] million to \$[DELETED] million

per occurrence,” and provided examples of premium quotes for insurance with limits of liability of up to \$[DELETED] million for certain of the airfields designated by this RFP. AR, Tab 3D, RMS Final Revised Proposal (Jan. 23, 2009), Midwest ATC Cost/Price Proposal, at 10-12; Tab 6C, BCM, at 16. In contrast, ITT, through its subcontractor, provided for a \$[DELETED] million liability insurance policy at greater cost. AR, encl. 12, Declaration of Cost and Price Analyst, at 9; Protester’s Comments at 42. The protester argues, based upon Midwest’s explanation regarding the liability insurance it provided as well as the liability insurance provided by ITT through its subcontractor, that both offerors “believed that more than \$10 million worth of Aviation Liability insurance was required,” and that the agency should have “normalized the cost required to purchase a sufficient level of insurance for evaluation purposes, and then given both parties whatever cost number the Government established as a plug number.” Protester’s Comments at 42-43.

In our view, the solicitation clearly stated the minimum amount of liability insurance required, and as acknowledged by the protester, RMS met the requirement while ITT exceeded it. Additionally, as explained by the agency, its concern during its evaluation of proposals was whether each offeror met the stated requirement, which they did. Agency Supp. Report at 22; AR, encl. 12, Decl. of Cost and Price Analyst, at 9. We are aware of no requirement that an agency, under the circumstances here, normalize the costs associated with the amount of liability insurance proposed by the respective offerors, where one offeror chose to meet a requirement and the other chose to exceed the requirement. As such, we find that this aspect of ITT’s protest to be without merit.

Finally, ITT challenges the agency’s selection of RMS’s proposal for award, based upon its contentions that its and RMS’s proposals were unreasonably evaluated. As explained above, we find that the agency’s evaluation of RMS’s and ITT’s proposals to be reasonably based and consistent with the terms of the solicitation, which gave greatest weight to the corporate experience evaluation factor. Since the SSA’s memorandum reasonably explains the rationale for the agency’s source selection, we

have no basis for overturning the award decision.<sup>8</sup> Matrix Int'l Logistics, Inc., B-277208; B-277208.2, Sept. 15, 1997, 97-2 CPD ¶ 94 at 14.

The protests are denied.

Lynn H. Gibson  
Acting General Counsel

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<sup>8</sup> As stated previously, ITT has made a number of other contentions during the course of this protest regarding the agency's evaluation of its and RMS's proposals. Although not all these contentions are specifically addressed in this decision, each was carefully considered by our Office and found to be either immaterial in view of our other findings, or invalid based upon the record as a whole. For example, although ITT argues at length that its and RMS's proposals were evaluated unreasonably under the program management plan factor with regard to ITT's assertion that it would be able to capture [DELETED] percent of the incumbent contractor workforce and RMS's claim that it would retain [DELETED] percent of the incumbent personnel, we have examined the record and find the impact of any possible errors made by the agency in this regard to be negligible, in light of the fact that it appears to be only an element of the TEB's evaluation conducted under a subfactor of this factor, and was not mentioned at all, either as a discriminator or otherwise, in the agency's source selection decision.