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Decision

Matter of: Glacier Technical Solutions, LLC

File: B-412990.2

Date: October 17, 2016

S. Lane Tucker, Esq., and Sarah R. Langberg, Esq., Stoel Rives LLP, for the protester.

Jonathan T. Williams, Esq., Kathryn V. Flood, Esq., Julia Di Vito, Esq., and Michelle E. Litteken, Esq., Piliero Mazza PLLC, for the intervenor.

Scott N. Flesch, Esq., CPT Meghan E. Mahaney, and Evan C. Williams, Esq., Department of the Army, for the agency.

Young S. Lee, Esq., Noah B. Bleicher, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of the awardee's technical proposal, as well as the agency's best-value decision, is sustained where the record shows that the agency's evaluation and award decision failed to acknowledge that an aspect of the awardee's technical approach was rejected by the agency.
 2. Protest challenging the agency's cost realism evaluation and adjustments to the protester's proposed labor costs is denied where the record shows that the agency performed a reasonable cost evaluation.
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DECISION

Glacier Technical Solutions, LLC (Glacier), a small business of El Paso, Texas, protests the award of a contract to SAWTST, LLC, a small business of Peachtree, Georgia, under request for proposals (RFP) No. W91151-14-R-0002, issued by the Department of the Army for test and evaluation technical services. The protester challenges the agency's evaluation of the awardee's technical proposal. Additionally, Glacier argues that the Army's cost realism evaluation of SAWTST's proposal was unreasonable, while also contending that the agency improperly adjusted Glacier's proposed labor costs upward. Finally, Glacier asserts that the agency's source selection decision is flawed because it failed to consider the performance risk associated with the awardee's proposal.

We sustain the protest.

BACKGROUND

On July 23, 2015, the Army issued the RFP as a competitive 8(a) set-aside to obtain proposals for administrative support, data management, data collection, instrumentation, information technology services, and logistics support for various Army test centers and directorates.¹ RFP at 1-2, 7. The solicitation was conducted pursuant to the procedures of Federal Acquisition Regulation (FAR) part 15, and contemplated the award of a cost-plus-fixed fee indefinite-delivery, indefinite-quantity (IDIQ) single award contract with a 5-year period of performance. Id. at 2, 10, 102, 115.

The RFP contemplated that the award would be made on a best-value basis, considering the following three factors: (1) mission capability; (2) past performance; and (3) cost. Id. at 115. Pursuant to the solicitation, mission capability was considered more important than past performance, and the two non-cost factors when combined were significantly more important than cost. Id.

The mission capability factor was comprised of the following three subfactors: (1) technical approach; (2) management approach; and (3) response to the patriot task authorization request. Id. at 107. The technical approach subfactor was significantly more important than the management approach subfactor, while the management approach subfactor was equally as important as the patriot task authorization request task order subfactor. Id. at 116. When the technical approach and management approach subfactors were combined, they were more important than the patriot task authorization request subfactor. Id.

With regard to the management approach subfactor, offerors were required to submit a proposal demonstrating an organizational structure that promoted the “efficient and flexible utilization” of the contractor’s personnel. Id. at 108. The proposal had to also identify methods of recruitment and retention that demonstrated an understanding of the special skills required for operational testing and the difficulty in obtaining and keeping qualified personnel with the background necessary to perform the work required. Id. Moreover, as relevant here, the RFP required an offeror’s management approach to be based on a staffing plan provided by the agency. Id. To the extent an offeror’s proposal deviated from that baseline staffing plan, those deviations had to be fully explained and justified in the cost narrative section of the offeror’s proposal. Id.

The solicitation provided that the Army would evaluate an offeror’s proposal under the mission capability factor to determine the adequacy of the response and the

¹ The services were to support the Army’s Operational Test Command. RFP at 7.

feasibility of its approach. Id. at 116. As relevant here, with regard to the management approach subfactor, proposals were to be evaluated based on the offeror's proposed organizational structure, its ability to promote the efficient and flexible utilization of personnel, its methods of recruitment and retention, whether the offeror demonstrated an understanding of the special skills required to conduct operational testing, and the difficulty in obtaining and keeping qualified personnel, as well as other personnel staffing metrics. Id. at 117. The solicitation also specifically provided that the agency would evaluate an offeror's management approach to determine whether it conformed to baseline staffing levels provided by the agency, the offeror's proposed management structure, its supervisor to employee ratios, and its use of technical leads. Id.

For the overall mission capability factor, an offeror's proposal could be assigned a rating of blue/outstanding, purple/good, green/acceptable, yellow/marginal, or red/unacceptable. Id. at 119. As relevant here, the solicitation contemplated a good rating when an offeror's proposal met the RFP's requirements, contained strengths that outweighed weaknesses, and demonstrated a low risk of unsuccessful performance. Id.

With regard to costs, the RFP instructed offerors that the cost volume of their proposals should conform to the agency's baseline staffing plan. Id. at 112. The RFP cautioned offerors that if they proposed a unique management approach, which deviated from that plan, those deviations had to be "fully explained and justified" in the cost narrative section of their proposals. Id. Offerors were also required to submit a complete breakdown of costs by major subcontractor.² Id. at 113.

The solicitation informed offerors that the cost volumes of their proposals would be evaluated for realism by using one of the cost analysis techniques identified in FAR § 15.404-1.³ Id. at 121. Moreover, before a proposal could be considered for award, an offeror's costs had to be determined reasonable. Id. In this regard, an offeror's proposed costs had to be traceable back to the labor categories it proposed, its full time employees, their hourly rates, and the total hours for each labor category specified in an offeror's cost matrix. Id. As relevant here, the RFP also contemplated that the agency would conduct a comparison between the proposed labor mix and staffing levels outlined in an offeror's technical solution, with the offeror's cost proposal, to determine whether the costs associated with the technical solution were incorporated into the cost submission. Id. Furthermore, the

² A major subcontractor was defined as a member of the offeror's overall team that was expected to perform 20 percent or more of the proposed effort. RFP at 113.

³ Offerors would not be assigned a rating or score under the solicitation's cost factor. RFP at 121.

solicitation advised offerors that the Army would develop a most probable cost (MPC) estimate for award evaluation purposes, and that if the Army determined that an offeror's costs were unrealistically low, it would be considered a performance risk. Id.

The agency received three offers in response to the solicitation by the RFP's August 28 closing date, including the ones submitted by Glacier and SAWTST. Contracting Officer's (CO) Statement at 1. The technical volumes of each proposal were evaluated by an Army technical evaluation team (TET), while the cost volumes were separately evaluated by a cost evaluation team (CET). Agency Report (AR), Tab 19, Final SAWTST Technical Evaluation, at 1-8; Tab 9, Final Cost Evaluation, at 1-57. After its initial evaluation, the agency opened discussions with all three offerors and issued evaluation notices identifying the concerns it had with each of the three proposals.⁴ AR, Tab 20, Final Source Selection Decision (Final SSD), at 2. The Army received responses to those evaluation notices on January 4, 2016. Id. The final revised proposals submitted by Glacier and SAWTST were evaluated as follows:

	SAWTST	Glacier
Mission Capability Factor	Good	Good
Past Performance Factor	Satisfactory Confidence	Satisfactory Confidence
Most Probable Cost	\$98,920,373	\$106,608,309

Id. at 2-3.

SAWTST's proposal was assigned an overall good rating under the mission capability factor after the TET concluded that the proposal contained strengths that outweighed any weaknesses and that its risk of unsuccessful performance was low. AR, Tab 19, Final SAWTST Technical Evaluation, at 1. With regard to each of the mission capability subfactors, SAWTST received good ratings for the technical capability and management approach subfactors, as well as an acceptable rating for the patriot task authorization request subfactor. Id. at 4, 5, 7. As relevant here, although the TET initially evaluated SAWTST as marginal under the management approach subfactor, that initial rating was revised to good after discussions concluded. Id. at 4-6. For example, SAWTST's proposal was initially evaluated as having a deficiency in its staffing plan because it failed to meet the minimum acceptable employee-to-supervisor ratio established by the solicitation, which the TET believed would result in a cost risk to the Army because the organizational structure initially proposed did not clearly meet the solicitation's requirements. Id. at 6. SAWTST addressed this concern during discussions by correcting the

⁴ Evaluation notices were issued on December 9, 2015. AR, Tab 20, Final SSD, at 2. Responses to the evaluation notices were received on January 4, 2016. Id.

employee-to-supervisor staffing ratio to a level that satisfied the RFP's minimum requirements. Id. As relevant here, the final TET evaluation report did not identify any unaddressed concerns the TET had with SAWTST's proposal and contained no mention of any concerns that the TET still had with any aspect of SAWTST's non-price proposal after discussions concluded. See Id. at 1-8.

With regard to the agency's evaluation of the cost factor, the CET identified the need to upwardly adjust certain aspects of the costs proposed by both Glacier and SAWTST. AR, Tab 9, Final Cost Evaluation, at 2. In performing its evaluation, the CET noted several errors in SAWTST's initial proposal. Id. at 40. For example, SAWTST's initial proposal contained calculation errors related to the total amounts for several of the positions it identified in its staffing plan while also double counting overtime hours for the total number of productive hours it proposed; failed to distinguish whether some of its proposed labor categories belonged to SAWTST or one of its subcontractors; and submitted an initial staffing plan that was characterized by the CET as being "potentially unrealistic."⁵ Id. at 40-46.

The agency concluded that SAWTST addressed and resolved some of these concerns during discussions. Id. For example, SAWTST responded to the agency's concerns with regard to the calculation errors in its initial proposal but failed to address them all. Id. at 40. SAWTST also updated its labor pricing workbook to reflect the division of labor between SAWTST and its subcontractors, and provided an explanation for two aspects of its staffing methodology to address the concerns identified in the evaluation notice it received. Id. at 40-46. As relevant here, with regard to a concern initially identified with SAWTST's staffing plan, the CET's final evaluation report noted that "[a]fter a technical evaluation was conducted by the technical team, it was again concluded that this staffing methodology was not acceptable and therefore rejected." Id. at 43 (emphasis added).

After discussions concluded, the CET applied an upward adjustment to the revised costs proposed by Glacier and SAWTST, to address all of its remaining concerns. Id. at 3. Specifically, the CET made an overall upward adjustment of \$3,204,628.21 to SAWTST's revised proposal to account for all concerns that were not fully resolved during discussions. Id. at 40-46. As relevant here, the CET concluded that \$3,018,076.55 of that total amount was necessary to address SAWTST's staffing methodology approach which was rejected by the TET. Id. at 43-44.

With regard to Glacier's proposal, the CET concluded that the firm's initial proposal offered a number of unrealistically low labor rates for certain labor categories when

⁵ The CET also identified concerns with the costs proposed by one of SAWTST's major subcontractors. AR, Tab 9, Final Cost Evaluation, at 50. These concerns were fully addressed during discussions. Id.

compared to Bureau of Labor Statistics (BLS) rates for comparable positions. Id. at 11. The CET rejected Glacier's attempt to justify the low labor rates it submitted for certain labor categories, after finding that Glacier's justification "failed to provide sufficient rationale as to how the positions with unrealistically low rates possess the skills and can adequately perform the necessary requirements for this effort while being paid at such a low level when compared to its baseline [BLS occupation employment statistics] position's [standard occupational classification] code." Id. at 12. In order to address this unresolved concern, the CET increased Glacier's proposed cost by \$416,650.85 for the purposes of establishing Glacier's MPC. The Army made no other adjustments to Glacier's proposed costs. Id. at 8-19.

The source selection authority (SSA) adopted the TET's and CET's evaluation findings for SAWTST's and Glacier's proposals, and ultimately determined that the proposal submitted by SAWTST represented the best value to the government. AR, Tab 20, Final SSD, at 1-10. In reaching this conclusion, the SSA noted that the proposals submitted by SAWTST and Glacier both received a good rating under the RFP's mission capability factor, and based the award decision on the cost difference between the two proposals. Id. at 9-10.

On April 1, the Army awarded the contract to SAWTST. CO Statement at 1. On April 18, Glacier filed a protest with our Office challenging the agency's award decision. Id. On May 12, 2016, in response to the protest, the Army took corrective action. Id. Based on the agency's corrective action, our Office dismissed Glacier's protest as academic. Glacier Technical Solutions, LLC, B-412990, May 17, 2016 (unpublished decision).⁶ On July 1, after conducting a reevaluation of Glacier's proposal, the Army again awarded the contract to SAWTST. CO Statement at 1. Glacier filed its protest with our Office on July 10.

DISCUSSION

Glacier protests various aspects of the agency's evaluation and award decision. The protester first contends that the agency unreasonably evaluated SAWTST's proposal under the mission capability factor. Glacier also challenges the Army's cost realism evaluation, asserting that the awardee's proposed costs were not

⁶ The Army limited its corrective action to a reevaluation of Glacier's past performance. Although the protester objected to the nature of the Army's corrective action, we dismissed its protest as academic because the Army committed to making a new award decision and because that new award decision could have resulted in the selection of a different awardee. The protester's past performance rating, as identified in this decision, in the table above, reflects the past performance rating assigned to Glacier after the agency's reevaluation. Additionally, the SSA accounted for the updated past performance rating in the final SSD. AR, Tab 20, Final SSD at 10 n.2.

realistic, while also arguing that it was unreasonable for the agency to upwardly adjust some of Glacier's proposed labor rates. Finally, the protester maintains that the Army's award decision is flawed because it failed to consider the performance risk associated with SAWTST's allegedly unacceptable and unrealistic proposal.

Mission Capability

The protester argues that the agency's evaluation of SAWTST's proposal under the mission capability factor is flawed because the proposal did not merit a rating of good. In support of this allegation, Glacier contends that SAWTST's technical proposal should have been evaluated as unacceptable because the TET rejected the explanation provided by SAWTST's to support one of its' proposed staffing methodologies.

The evaluation of an offeror's proposal is a matter within the agency's discretion. National Gov't Servs., Inc., B-401063.2 et al., Jan. 30, 2012, 2012 CPD ¶ 59 at 5. An offeror's disagreement with the agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7. While we will not substitute our judgment for that of the agency, we will question the agency's conclusions where they are inconsistent with the solicitation criteria and applicable procurement statutes and regulations, undocumented, or not reasonably based. Public Commc'ns Servs., Inc., B-400058, B-400058.3, July 18, 2008, 2009 CPD ¶ 154 at 17.

In reviewing an agency's evaluation, we do not limit our consideration to contemporaneously-documented evidence, but instead consider all the information provided, including the parties' arguments, explanations, and any hearing testimony. Remington Arms Co., Inc., B-297374, B-297374.2, Jan. 12, 2006, 2006 CPD ¶ 32 at 10. While we accord greater weight to contemporaneous source selection materials as opposed to judgments made in response to protest contentions, 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 the rationality of selection decisions--so long as those explanations are credible and consistent with the contemporaneous record. NWT, Inc.; PharmChem Labs., Inc., B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16 (citing Boeing Sikorsky Aircraft Support, B-277263.2, B-277263.3, Sept. 29, 1997, 97-2 CPD ¶ 91 at 15).

Based on our review of the record, we find the agency's technical evaluation of SAWTST under the mission capability factor, and specifically under the management approach subfactor, to be unreasonable. The RFP required an offeror's management approach to be based upon the staffing levels recommended by the agency. RFP at 108. To the extent that an offeror's staffing plan deviated from the agency-provided baseline staffing levels, the RFP required those deviations to be justified in the cost narrative section of an offeror's proposal. Id.

The solicitation expressly advised that the Army would evaluate an offeror's management approach as it related to the analysis of baseline staffing. Id. at 117.

Here, SAWTST's initial offer was evaluated as deviating from the agency-provided baseline staffing level. AR, Tab 9, Final Cost Evaluation, at 43. These deviations were enough of a concern to the Army that they were addressed in the evaluation notice that the agency sent to SAWTST during discussions. Id. SAWTST responded to the evaluation notice, but in spite of the firm's attempts to explain how the Army's concerns would be addressed, the CET's final evaluation report clearly states that the TET rejected one of the two staffing methodologies proposed by SAWTST in response to the Army's evaluation notice. Specifically, the Army's TET rejected SAWTST's explanation for the firm's decision to propose [DELETED].⁷ Although the CET's final evaluation documents the fact that the TET rejected this aspect of SAWTST's proposal, the TET's final evaluation report is devoid of any discussion explaining what consideration and weight it gave to this concern.⁸ Compare AR, Tab 9, Final Cost Evaluation, at 43, with Tab 19, Final SAWTST Technical Evaluation, at 1-8.

In this regard, we find the agency's evaluation of SAWTST's proposal under the mission capability factor and more specifically, under the management approach subfactor to be unreasonable because the record reflects that even though the TET rejected one of SAWTST's proposed staffing methodologies, it failed to acknowledge that rejection or otherwise explain how that rejection factored into its technical evaluation of the awardee's proposal. That is, the agency has not explained why SAWTST was rated as good under the mission capability factor despite the TET's decision to reject one aspect of the firm's staffing plan.

In response to this allegation, the agency argues that it was reasonable for the Army to assign a rating of good to SAWTST's proposal under the mission capability factor because only one portion of one sub-factor was rejected by the agency,

⁷ The Army accepted SAWTST's explanation of the other staffing plan methodology proposed by the firm, which offered [DELETED]. AR, Tab 9, Final Cost Evaluation, at 43.

⁸ The Army argues that where a solicitation does not indicate that an agency will consider the results of its cost realism evaluation under non-cost factors, an agency is not required to consider the cost realism result in its evaluation of non-cost factors. This argument does not apply to the instant situation. Here the RFP required the agency to evaluate an offeror's staffing plan under the mission capability management approach subfactor. Moreover, as documented in the CET final evaluation report and the final SSD, it was the TET, not the CET, that concluded that the offeror's staffing methodology should be rejected. AR, Tab 9, Final Cost Evaluation, at 43; AR, Tab 20, Final SSD at 9.

especially when considering that this rejected portion of SAWTST's proposal was addressed by the Army through its cost realism analysis and because the rejected staffing deviations reflected only a fraction of what the agency assessed in order to determine its mission capability rating.⁹ As discussed above, the RFP required the Army to evaluate an offeror's management approach as it related to the offeror's baseline staffing, under the mission capability management approach subfactor. There is nothing in the contemporaneous record to support the agency's position that it was reasonable for the TET to assign a good rating to SAWTST's proposal under the mission capability factor, even though the TET rejected one of SAWTST's proposed staffing methodologies. We sustain the protest because while the TET concluded that one of SAWTST's staffing methodologies should be rejected, the contemporaneous record does not explain what weight or effect the TET gave to this consideration when assigning the good rating to SAWTST's proposal under the mission capability factor, and specifically the management approach subfactor.

Cost Realism

Next, Glacier argues that the cost realism evaluation performed by the Army was flawed. In this regard, the protester first alleges that the agency should have evaluated SAWTST's proposal as unrealistic under the cost factor. Glacier also contends that the overall costs proposed by SAWTST are so low that the proposed costs could not have been based on the technical approach identified in the awardee's proposal; that no acceptable management approach could account for SAWTST's allegedly unrealistically low cost proposal; that the awardee's proposed costs are unrealistic for the work to be performed; and that SAWTST's proposal had to have improperly deviated from the baseline staffing plan provided by the agency. In addition to challenging the agency's cost evaluation of SAWTST's proposal, the protester also challenges the Army's decision to apply an upward adjustment to certain labor categories proposed by Glacier.

When an agency evaluates a proposal for the award of a cost-reimbursement contract, an offeror's proposed estimated costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. FAR §§ 15.305(a)(1); 15.404-1(d); Quantech Servs., Inc., B-408227.8, B-408227.9, Dec. 2, 2015, 2015 CPD ¶ 380 at 6. Consequently, the agency must perform a cost realism analysis to determine whether the

⁹ To the extent that this legal argument is the Army's attempt to provide a post-hoc analysis for the good rating the TET assigned to SAWTST's proposal under the mission capability factor, we do not find it to be reasonable. See Boeing Sikorsky Aircraft Support, *supra*. Agencies are required to adequately document their evaluations, and, where an agency fails to do so, it runs the risk that our Office will be unable to determine whether the agency's evaluation was reasonable. DKW Commc'ns, Inc., B-411182, B-411182.2, June 9, 2015, 2015 CPD ¶ 178 at 9.

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); Advanced Commc'n Sys., Inc., B-283650 et al., Dec. 16, 1999, 2000 CPD ¶ 3 at 5. An offeror's proposed costs should be adjusted, when appropriate, based on the results of the cost realism analysis. FAR § 15.404-1(d)(2)(ii). Our review of an agency's cost realism evaluation is limited to determining whether the cost analysis is reasonably based and not arbitrary. Jacobs COGEMA, LLC, B-290125.2, B-290125.3, Dec. 18, 2002, 2003 CPD ¶ 16 at 26.

Based on our review of the record, we find reasonable the cost realism analysis performed by the agency. First, the record establishes that the CET performed a thorough analysis of the costs initially proposed by SAWTST. For example, the CET's final evaluation report shows that the CET traced back SAWTST's proposed costs to the labor categories it proposed, and then compared the proposed labor mix and staffing levels to SAWTST's proposed costs to determine whether they were properly incorporated. As required by the RFP, the CET coordinated with the TET to determine whether any deviations proposed in SAWTST's technical proposal were justified. Finally, the CET made upward adjustments, during its development of an MPC estimate for SAWTST's proposal, to account for any deviations that would need to be taken into consideration for award evaluation purposes. Here, the record shows that the CET performed a careful analysis of SAWTST's proposed costs and adjusted them to ensure that they were realistic for the work to be performed. Advanced Commc'n Sys., Inc., supra. Accordingly, we find no basis to sustain Glacier's protest on this ground because the cost realism analysis performed by the agency was reasonably based, and not arbitrary. Jacobs COGEMA, LLC, supra.

Next, we also find no basis to sustain the protester's allegation that the agency impermissibly applied an upward adjustment to certain labor categories proposed by Glacier. The CET initially evaluated Glacier's proposal as offering unrealistically low labor rates for certain labor categories. The agency's finding was based on the Army's comparison between some of Glacier's proposed labor category rates and BLS labor rates for comparable positions. For example, Glacier proposed its Fort Sill "documentation contspec" personnel position at an hourly rate that was less than the 10th percentile rate for its comparable BLS position. AR, Tab 9, Final Cost Evaluation, at 11. Concerns with these proposed labor rates were raised with the protester during discussions. The protester responded to the agency's concerns by notifying the Army that the labor rates it submitted were based on:

costing data from multiple sources to include BLS, Salary.com, Western Management Group, known salaries for both Fort Bliss and Fort Sill, and was reviewed for demographic considerations. Based on [Glacier's] job description-based pricing research and the

past seven(7) years of data and staffing, [Glacier's] pricing aligns with qualified employee availability (incumbent employees and local staffing pools) at these locations and supports our ability to hire within this pricing structure.

Protest at 16. The CET reviewed the justification provided, but rejected it because the CET believed that the justification “failed to provide sufficient rationale as to how the positions with unrealistically low rates possess the skills and can adequately perform the necessary requirements for this effort while being paid at such a low level when compared to its baseline [BLS occupation employment statistics] position’s [standard occupational classification] code.” AR, Tab 9, Final Cost Evaluation, at 12. Thus the CET made a commensurate upward adjustment based on relevant BLS data. Although the protester disagrees with the agency’s decision to apply upward adjustments to some of the labor rates proposed by Glacier, we find nothing unreasonable with the agency’s decision to rely on the BLS labor rates, rather than rates the protester believes it justified, when evaluating proposals under the cost factor.

Best-Value Decision

Finally, the protester contends that the agency’s best-value decision was flawed.¹⁰ Based on our review of the record, we find the SSA’s best-value decision to be unreasonable because it adopted a final technical evaluation report that failed to document or consider the effect of the TET’s decision to reject one of the staffing methodologies proposed by SAWTST.

In reviewing an agency’s evaluation of proposals, we examine the supporting record to determine whether the decision was reasonable, and in accord with the evaluation criteria listed in the solicitation and applicable procurement laws and regulations. LIS, Inc., B-400646.2, B-400646.3, Mar. 25, 2009, 2010 CPD ¶ 5 at 7. An agency must have adequate documentation to support its judgement. Id. An agency that fails to adequately document its source selection decision bears the risk that our Office may be unable to determine whether the decision was proper. Id.

¹⁰ Glacier argues that the agency’s best-value decision is flawed because the agency’s source selection decision failed to account for performance risk the protester alleges exists in SAWTST’s proposal. Here, the RFP only provided for the assessment of performance risk in the context of the agency’s past performance evaluation, or if the agency determined that an offeror’s proposed costs were unrealistically low. RFP at 119, 121. Glacier’s protest did not challenge any aspect of the agency’s past performance evaluation of SAWTST, and as discussed above, we find the agency’s evaluation of SAWTST’s proposed costs to be reasonable. Accordingly we deny this aspect of Glacier’s protest, but sustain the protester’s overall challenge to the agency’s best-value decision.

Here the final SSD contains no discussion of how the award decision may have been impacted by SAWTST's unacceptable deviation to the agency-recommended baseline staffing, or how this rejected deviation impacted the SSA's best-value determination. The final SSD simply observes, without any analyses, that "the proposed deviations were questioned by the technical evaluation team, but supporting rationale provided by [SAWTST] based on discussions was determined unacceptable." AR, Tab 20, Final SSD, at 9. We sustain the protest based on Glacier's broad challenge to the agency's best-value decision because the final SSD does not provide any substantive analysis or consideration with regard to the staffing methodology that was rejected by the TET.

Prejudice

Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. Innovative Test Asset Solutions, LLC, *supra*, at 11; DRS C3 Sys., LLC, B-310825, B-310825.2, Feb. 26, 2008, 2008 CPD ¶ 103 at 28; see Statistica, Inc. v. Christopher, 102 F.3d 1577 (Fed. Cir. 1996).

Here, we find prejudice in the agency's failure to document, consider, and weigh, its decision to reject the staffing deviation proposed by SAWTST. The RFP required the agency to evaluate an offeror's proposal under the management plan mission capability subfactor to determine whether the offeror's staffing plan was based on the staffing levels provided and recommended by the agency. RFP at 108. The record establishes that the TET rejected one of SAWTST's staffing methodologies, but does not explain how the TET weighed that decision when assigning the firm the good rating it received under the RFP's mission capability factor, or if the TET even considered this issue at all. Correction of this error could potentially lower SAWTST's rating under the RFP's most important evaluation factor.

Furthermore, although the SSA noted the TET's decision to reject one aspect of SAWTST's proposal, the record does not show how that concern impacted the SSA's award decision. Accordingly, we cannot conclude that the SSA would have reached the same decision, had this concern been weighed by the TET and taken into consideration. Therefore, the agency's actions were prejudicial to the protester. Although the agency now argues that SAWTST's deviation to the Army's recommended baseline staffing levels are inconsequential, that conclusion is not reflected in the contemporaneous record. A reasonable possibility of prejudice is a sufficient basis for sustaining a protest. J.R. Conkey & Assocs., Inc. d/b/a Solar Power Integrators, B-406024.4, Aug. 22, 2012, 2012 CPD ¶ 241 at 11.

RECOMMENDATION

We recommend that the Army reevaluate SAWTST's proposal under the mission capability factor and document its consideration of, and the weight that was assigned to, the TET's conclusion that one of SAWTST's proposed staffing methodologies was not acceptable and should be rejected. Additionally, we recommend that the agency prepare a new source selection decision reflecting these considerations. We also recommend that the agency reimburse the protester its costs associated with filing and pursuing the protest, including reasonable attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after the receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Susan A. Poling
General Counsel