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# Decision

**Matter of:** Deloitte Consulting, LLP

**File:** B-418321.5; B-418321.6

**Date:** August 19, 2021

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Glenn G. Wolcott, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

1. Protest is sustained where awardee's proposal failed to comply with solicitation requirements regarding transition, and the agency failed to reasonably evaluate the awardee's proposal against those requirements.
  2. Protest that agency improperly evaluated awardee's proposal with regard to experience is denied where agency's evaluation was reasonable and consistent with the terms of the solicitation.
  3. Protest that agency improperly evaluated awardee's cost/price is denied where agency's evaluation was reasonable and consistent with the terms of the solicitation.
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## DECISION

Deloitte Consulting, LLP, of Arlington, Virginia, protests the issuance of a task order to Accenture Federal Services, LLC (AFS) by the Department of Health & Human Services pursuant to task order request for proposals (TORP) No. 191606, for information technology services supporting the Centers for Medicare & Medicaid Services' (CMS) federally facilitated exchange (FFE).<sup>1</sup> Deloitte protests that AFS's proposal failed to

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<sup>1</sup> The FFE is a health insurance exchange, the public-facing component of which is known as "Healthcare.gov." The FFE is operated by CMS pursuant to the Patient

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comply with the solicitation requirements regarding transition, and also challenges the agency's evaluation of AFS's proposal with regard to experience and cost/price.

We sustain the protest in part and deny it in part.

## BACKGROUND

On July 12, 2019, pursuant to Federal Acquisition Regulation (FAR) section 16.505, the agency issued the TORP to firms holding indefinite-delivery indefinite-quantity (IDIQ) contracts under CMS's Strategic Partner Acquisition Readiness program; the solicitation sought proposals to operate, maintain, and modernize CMS's FFE.<sup>2</sup> As amended, the solicitation contemplated the issuance of a task order for a 1-year base period that included a 6-month transition period and four 1-year option periods, and provided that the source selection decision would be based on a best-value tradeoff pursuant to the following evaluation factors: relevant corporate experience; technical demonstration; technical approach/understanding; staffing plan/key personnel; small business utilization; and cost/price.<sup>3</sup> Agency Report (AR), Tab 1ff, TORP Instructions/Evaluation Criteria at 13-15. The solicitation contained contract line item numbers (CLINs) that corresponded to six performance work statement (PWS) tasks: (1) business operations; (2) maintenance; (3) new functionality development; (4) initiation of emerging policies/priorities; (5) governance, management and reporting; and (6) transition.<sup>4</sup> *Id.* at 2-4.

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(...continued) Protection and Affordable Care Act, and allows individuals and small-business employers to compare and shop for private health insurance options.

<sup>2</sup> Although this is a task order competition under a multiple-award IDIQ contract, the agency issued the solicitation as a TORP rather than a request for quotations, and refers to the submissions of proposals from offerors instead of quotations from vendors. For consistency and ease of reference to the record, we do the same.

<sup>3</sup> The solicitation provided that the first three non-cost/price factors were of equal importance; the fourth non-cost/price factor (staffing plan/key personnel) was slightly less important; the fifth non-cost/price factor (small business utilization) was the least important non-cost/price factor; and that the combined non-cost/price factors were significantly more important than cost/price. AR, Tab 1ff, TORP Instructions/Evaluation Criteria at 13-14. Offerors were advised that the agency would assign adjectival ratings under each non-cost/price factor of high confidence, some confidence, or low confidence. *Id.*

<sup>4</sup> The CLINs for tasks 1 (business operations), 2 (maintenance), and 5 (governance, management and reporting) were fixed-price; CLINs for tasks 3 (new functionality development), 4 (initiation of emerging policies/priorities, and 6 (transition period) were cost-reimbursement. *Id.* at 2-3. The solicitation provided that the agency would perform a cost realism assessment for the cost-reimbursement CLINs. *Id.* at 17-18.

The solicitation provided for a two-phase evaluation, with phase I limited to evaluation of corporate experience. Following evaluation of experience, the solicitation provided that the agency would “advise offerors to participate in Phase II . . . or, based on the information submitted, that it is unlikely the offeror(s) is/are a viable competitor.” *Id.* at 1. The solicitation provided that, in phase II, the agency would conduct technical demonstrations, evaluate proposals under the remaining factors, and make a best-value tradeoff between technical merit and cost/price. *Id.* at 4.

Prior to submission of initial proposals, the agency responded to various offeror questions, and incorporated those questions and the agency’s answers into the solicitation. See AR, Tab 1I, Questions and Answers. Of relevance to this protest, one of the questions expressed concern about the relative advantage the incumbent contractor would have under the transition CLIN, due to the substantially lower level of transition effort that would be required for the incumbent, and asked: “In order to normalize the pricing evaluation, will the Government remove [the transition CLIN] from the evaluation of all offerors’ overall price so as to not unfairly advantage the incumbent contractor?” *Id.* at Question No. 16. The agency responded:

The [transition CLIN] covers a six month period of performance that all offerors must respond to with an estimated CPAF [cost plus award fee]. *The incumbent contractor will be required to propose any transition cost along with full performance of all the PWS tasks.* The incumbent should not be advantaged as the prior contract will have expired prior to the start date for the new award.

*Id.* (emphasis added).

On or before the August 5, 2019 initial closing date, proposals were submitted by AFS and Deloitte. On November 19, 2019, the agency selected Deloitte for award; thereafter, AFS, who was the incumbent, filed a protest with our Office. In response to that protest, the agency chose to take corrective action by reviewing and/or revising its evaluation documentation and making a new source selection decision; accordingly, GAO dismissed AFS’s protest.

On June 10, 2020, the agency again selected Deloitte for award; likewise, AFS filed a protest with this Office. On September 22, the agency again elected to take corrective action, stating that it would amend the solicitation, request and evaluate revised proposals, and make a new award decision; accordingly, GAO dismissed AFS’s second protest.

In November 2020, the agency amended the solicitation, making various revisions. No changes were made to the solicitation provision, quoted above, regarding the transition CLIN. On December 7, 2020, AFS and Deloitte submitted their proposals responding to the amended solicitation. There is no dispute that AFS’s proposal did not include costs for “performance of all PWS tasks” during the transition period. Contracting Officer’s

Statement, June 14, 2021, at 15-16; Agency’s Memorandum of Law (MOL), June 14, 2021, at 30-33; see also AR, Tab 2x, AFS Proposal at 1-47 to 1-49, App1-1 to APP1-13. Thereafter, the agency evaluated the proposals, conducted discussions with the offerors,<sup>5</sup> requested and received final revised proposals, and evaluated those proposals as follows:

	<b>AFS</b>	<b>Deloitte</b>
<b>Relevant Experience</b>	High Confidence	High Confidence
<b>Technical Demonstration</b>	High Confidence	High Confidence
<b>Technical Approach/Understanding</b>	High Confidence	Some Confidence
<b>Staffing/Key Personnel</b>	High Confidence	High Confidence
<b>Small Business Utilization</b>	High Confidence	High Confidence
<b>Evaluated Cost/Price</b>	\$329,959,861	\$328,472,347

AR, Tab 4h, Source Selection Determination (SSD) at 6.

With regard to its evaluation under the relevant experience factor, the agency stated:

[AFS’s] years of experience with the current FFE system gives them a slight advantage. There is only one Federally Facilitated Exchange and [AFS] has been operating and maintaining that system for the last six years. When comparing the technical findings [in the technical evaluation] of the offerors, I find that Deloitte has a significant variety of similar experiences that will most likely equate to successful performance of the FFE.<sup>[6]</sup> However, [AFS’s] experience with the actual FFE makes them slightly superior [to] Deloitte for this factor.

*Id.* at 41.

With regard to evaluation under the technical approach/understanding factor, the agency stated that Deloitte’s proposal “received a negative finding for their approach to pre-Open Enrollment performance testing,”<sup>7</sup> while AFS’s proposal did not receive any negative findings. AR, Tab 4h, SSD at 46. More specifically, the agency concluded:

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<sup>5</sup> During discussions with AFS, the agency did not raise any issue regarding AFS’s failure to include costs “for full performance of all PWS tasks” during the transition period.

<sup>6</sup> Among other things, the agency recognized Deloitte’s experience with several state-operated healthcare exchanges, including those in Connecticut, California, Washington, Kentucky and Texas. AR, Tab 4h, SSD at 40.

<sup>7</sup> The agency explained that the solicitation required a thorough pre-open enrollment testing approach “to ensure the annual Open Enrollment (OE) occurs without unplanned downtime.” *Id.* at 46. The agency concluded that Deloitte’s proposal reflected “a high-  
(continued...)”

Deloitte's lack of detail in their approach to pre-open enrollment testing reduces the Government's confidence in how they will satisfy the requirements in providing efficient, low-risk performance. Therefore I find Accenture slightly superior to Deloitte for this evaluation factor.

*Id.*

Based on the determination that AFS's proposal was slightly superior under two non-cost/price evaluation factors,<sup>8</sup> while Deloitte offered a slightly lower evaluated cost/price, the source selection authority (SSA) performed a best-value tradeoff, stating:

[AFS's] experience is more relevant to the work than Deloitte's and there is a tangible benefit of reduced risk in that the work would not transition to a new contractor. The Deloitte approach to [pre-open enrollment] performance testing lacks a full explanation of how they would apply each of the types of testing mentioned. [AFS's] testing approach included such details and therefore provided a greater assurance of success and presents less risk to the Government. Overall [AFS's] combination of a slight technical advantage over Deloitte in experience and slight advantage in the [technical approach/understanding] factor warrants paying a \$1.5 million premium over 5 years. The cost difference between the two offerors' proposals is approximately .45%.

\* \* \* \* \*

Based upon the comparative analysis of the proposals as set forth above, it is my determination that the proposal submitted by Accenture Federal Services at an estimated total cost/price of \$329,959,861 represents the Best Value for the Government.

*Id.* at 47-48.

On April 28, the agency awarded the task order to AFS. This protest followed.<sup>9</sup>

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level approach" and "did not provide sufficient detail on the proposed process, (...continued) particularly a discussion of . . . the interaction between performance testing and infrastructure/software improvements." *Id.*

<sup>8</sup> The agency found the proposals to be essentially equal under the other non-cost/price factors.

<sup>9</sup> Because the value of the task order is in excess of \$10 million, this protest is within our jurisdiction to consider protests regarding task orders placed under civilian agency indefinite-delivery, indefinite-quantity contracts. See 41 U.S.C. § 4106(f)(1)(B); *Alliant Sols., LLC*, B-415994, B-415994.2, May 14, 2018, 2018 CPD ¶ 173 at 4 n.8.

## DISCUSSION

Deloitte protests that AFS's proposal failed to comply with the terms of the solicitation regarding transition, and also challenges the agency's evaluation of AFS's proposal with regard to experience and cost/price.<sup>10</sup> As discussed below, we sustain the protest with regard to the solicitation's transition requirements and deny the protest regarding the agency's evaluation of experience and cost/price.

### Transition Requirements

First, Deloitte protests that Accenture's proposal failed to comply with the explicit provision of the solicitation regarding the transition period. Specifically, in response to a question that expressed concern about the incumbent's advantage under the transition CLIN and requested the agency to remove that CLIN for purposes of evaluation, the agency responded by referencing the transition CLIN and incorporating the following provision into the solicitation: "The incumbent will be required to propose all transition costs along with full performance of the PWS requirements." AR, Tab 1I, Questions and Answers at Question No. 16. Deloitte notes that there is no dispute that AFS's proposal failed to comply with this unambiguous solicitation provision. Accordingly, Deloitte protests that AFS's proposal should have been found unacceptable, downgraded with regard to its understanding of the solicitation requirements, and/or its evaluated cost/price should have been increased to reflect the costs associated with performance of all PWS tasks during the 6-month transition period.<sup>11</sup>

In responding to this allegation, the agency does not assert that AFS, in fact, proposed "all transition costs along with full performance of the PWS requirements," as the solicitation provided. Rather, the agency makes several arguments. First, it characterizes the provision (that it placed in the solicitation) as "unfair and unreasonable."<sup>12</sup> The agency further complains that, in raising this issue, "Deloitte relies on a single response to an offeror question"; and asserts that, because the agency issued an interim contract to AFS following expiration of the prior contract in

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<sup>10</sup> Deloitte initially protested various other aspects of the agency's evaluation and source selection process, but subsequently withdrew all of the allegations other than the ones discussed below. Deloitte Supp. Comments, July 19, 2021, at 2.

<sup>11</sup> It appears that the cost/price of AFS's task order for the 6-month transition period is \$5,631,144. See Protest, exh. 15, Federal Procurement Data System for Task Order at 1-2. Based on AFS's total task order cost/price of \$329,959,861, Deloitte asserts that the evaluated cost/price of AFS's proposal for the 6-month transition period should have been at least \$30 million higher (approximately one-tenth of AFS's price for the total 60-month task order). Deloitte Comments/Supp. Protest, June 24, 2021, at 18.

<sup>12</sup> AFS similarly characterizes the solicitation requirement as "unreasonable," see AFS Comments, June 24, 2021, at 24; yet, AFS did not protest this provision prior to submission of its proposal.

January 2021, “[t]here is simply no need for the new contractor to do the substantive work during transition.” Contracting Officer’s Statement, June 14, 2021, at 15-16; MOL, June 14, 2021, at 30-33. Further, the agency asserts that: the solicitation requirement was “ambiguous”; “incumbent-specific criteria . . . are *per se* improper”; and Deloitte’s protest regarding this matter is untimely. The agency asserts that because Deloitte “was on notice during AFS’s last post-award protest that AFS’s proposal only addressed transition tasks [and not full performance of the PWS requirements] during the first six months of performance,” Deloitte “could have raised this argument during the prior protest.” MOL at 31-33.

An agency’s award of a task order pursuant to the fair opportunity process set forth in FAR section 16.505 must be reasonable and consistent with the terms of the solicitation and applicable procurement statutes and regulations. See, e.g., *Leidos Innovations Corp.*, B-417568.3, B-417568.4, May 11, 2020, 2020 CPD ¶ 167 at 12. While the evaluation of offerors’ proposals is generally a matter within a procuring agency’s discretion, our Office will question an evaluation that is unreasonable or inconsistent with the provisions of the solicitation. *Id.* In identifying and/or interpreting the provisions of a solicitation, we will first look to the solicitation’s plain language. See, e.g., *Manhattan Telecomm. Corp.*, B-418818, Sept. 17, 2020, 2020 CPD ¶ 185 at 4-5; *ZolonTech, Inc.*, B-418213, B-418213.2, Jan. 23, 2020, 2020 CPD ¶ 57 at 8. Finally, a procuring agency may, but is not required to, either neutralize or perpetuate an incumbent contractor’s competitive advantage, provided there is a reasonable basis for the relevant solicitation provisions that address this matter. *Paramount Grp., Inc.*, B-298082, June 15, 2006, 2006 CPD ¶ 98 at 5; *Inventory Accounting Serv.*, B-286814, Feb. 7, 2001, 2001 CPD ¶ 37 at 4; *Military Waste Mgmt, Inc.*, B-294645.2, Jan 13, 2005, 2005 CPD ¶ 13 at 4.

Here, we disagree with the agency’s assertion that the solicitation was ambiguous regarding transition. As noted above, the agency sought questions from offerors, and incorporated its responses to those questions into the solicitation. Further, the question at issue was clearly posed by a non-incumbent offeror seeking to eliminate what it perceived as an unfair advantage for the incumbent. As discussed above, the agency would not have been obligated to neutralize AFS’s advantage as the incumbent; however, that is clearly what its response to the offeror’s question sought to do. Specifically, in response to the concerns expressed about AFS’s incumbent advantage during the transition period due to substantially lower transition costs, the agency unambiguously stated: “The incumbent will be required to propose all transition costs *along with full performance of the PWS requirements*. The incumbent should not be advantaged as the prior contract will have expired prior to the start date for the new award.” AR, Tab 11, Questions and Answers at Question No. 16 (emphasis added). It is difficult to imagine how the agency could have more clearly stated its intent to address the questioner’s concerns. The agency’s assertion that the solicitation was ambiguous is without merit.

Next, nothing in the record suggests that the agency’s response to the offeror’s question regarding transition was unreasonable. Specifically, it was clearly permissible for the

agency to attempt to “level the playing field” for the competing offerors in order to ensure that it obtained competition.<sup>13</sup> See *Exec Plaza, LLC*, B-400107, B-400107.2, Aug. 1, 2008, 2008 CPD ¶ 143 at 9-11.

Furthermore, we reject the agency’s assertion that Deloitte’s proposal was untimely on the basis that Deloitte, as the prior awardee defending against AFS’s prior protest, was required to present this matter during that protest. As discussed above, GAO did not issue a decision on the merits of AFS’s prior protest; rather, the agency chose to take corrective action without waiting for a GAO decision, stating that it would amend the solicitation, request and evaluate revised proposals, and make a new award decision. Thus, our Office would have dismissed as premature any protest submitted by Deloitte that reflected Deloitte’s speculation about the nature of the agency’s subsequent solicitation amendments, the substance of AFS’s subsequent proposal, or the agency’s subsequent evaluation of that proposal. See *Accenture Fed. Servs., LLC*, B-418321.4, Jan. 29, 2021, 2021 CPD ¶ 67 at 5; cf. *VS2, LLC*, B-418942.4, B-418942.5, Feb. 25, 2021, 2021 CPD ¶ 108 (dismissing protest as an untimely request for reconsideration and otherwise not for consideration where, following GAO’s issuance of a decision sustaining a prior protest, the current protest raised procedural issues which could have affected GAO’s earlier decision).

Finally, we have considered whether Deloitte was competitively prejudiced by the agency’s failure to evaluate AFS’s proposal pursuant to the solicitation’s transition CLIN requirements. In this regard, we will not sustain a protest unless the record establishes a reasonable possibility that the protester was prejudiced by the agency’s actions. See, e.g., *Procentrix, Inc.*, B-414629, B-414629.2, Aug. 4, 2017, 2017 CPD ¶ 255 at 11-12; *Raytheon Co.*, B-409651, B-409651.2, July 9, 2014, 2014 CPD ¶ 207 at 17.

Here, as discussed above, the agency selected AFS’s proposal for award, stating:

Overall [AFS’s] combination of a slight technical advantage over Deloitte in experience and slight advantage in the [technical approach/understanding] factor warrants paying a \$1.5 million premium over 5 years. The cost difference between the two offerors’ proposals is approximately .45%.

AR, Tab 4h, SSD at 48.

Based on our review of the record, it appears that, at a minimum, AFS’s compliance with the solicitation transition CLIN requirements and/or the agency’s consideration of the applicable requirements would have resulted in a potentially significant increase to AFS’s evaluated cost/price; accordingly, a different best-value tradeoff would likely have been required. On this record, we are unable to

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<sup>13</sup> The evaluation record indicates that there were only two offerors, Deloitte and AFS, competing for this task order.



conclude that the agency's failure to evaluate AFS's proposal pursuant to the solicitation's transition CLIN requirements did not prejudice Deloitte.

In summary, we sustain the protest on the basis that AFS's proposal failed to comply with the solicitation requirements regarding the transition CLIN and the agency failed to reasonably evaluate AFS's proposal pursuant to those requirements.

#### Evaluation of Relevant Experience

Next, Deloitte asserts that, in evaluating AFS's proposal under the relevant experience factor, the agency "improperly credited AFS with the experience of its corporate parent, Accenture LLP," with regard to operation of the California health insurance exchange (referred to as CalHEERS).<sup>14</sup> Protest at 18. In this regard, Deloitte asserts "there is no indication [in AFS's proposal] that Accenture LLP will perform any meaningful role under the AFS Task Order." *Id.* at 20.

The agency responds that, contrary to Deloitte's assertion, AFS's proposal contained multiple references to its intended reliance on the resources of its parent corporation.<sup>15</sup> For example, in its proposal, AFS characterized its staffing plan as "flexible to . . . include[] reachback to a large group of resources . . . [including] more than [redacted] Health and Public Service professionals through Accenture LLP," and stated that AFS's "staffing approach . . . provid[es] CMS access to thousands of skilled professionals and leading SMEs [subject matter experts] across Accenture in areas of [redacted] and other relevant areas to the FFE." MOL at 8-14; see AR, Tab 2e, AFS Proposal, Vol. III at 2-3; Tab 2x, AFS Proposal, Vol. III at 2-1. Accordingly, the agency maintains that AFS's proposal amply reflected its intent to meaningfully involve its parent corporation in performing the FFE task order. Finally, the agency asserts that, in any event, its determination of AFS's superiority under the relevant experience factor was reasonable based solely on AFS's experience under the prior FFE task order. Specifically, the agency refers to its source selection decision that states: "[AFS's] experience with the actual FFE makes them slightly superior t[o] Deloitte for this [relevant experience] factor." See AR, Tab 4h, SSD at 41.

An agency may properly attribute the experience of a parent or affiliated company to an offeror where the firm's proposal demonstrates that the resources of a parent or affiliate--that is, its workforce, management, facilities or other resources--will affect contract performance. See, e.g., *IAP-Hill, LLC*, B-406289 *et al.*, Apr. 4, 2012, 2012

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<sup>14</sup> Deloitte also initially challenged the agency's determination that AFS's experience as the FFE incumbent was slightly superior to Deloitte's experience; as noted above, Deloitte subsequently withdrew that allegation.

<sup>15</sup> Overall, the agency identifies 10 statements in AFS's proposal that reference AFS's reliance on the resources of its parent corporation. MOL at 10-11.

CPD ¶ 151 at 3; *Ecompex, Inc.*, B-292865.4, *et al.*, June 18, 2004, 2004 CPD ¶ 149 at 4-5.

Here, based on our review of the entire record, we find no merit in Deloitte's challenge to the agency's evaluation of AFS's proposal under the relevant experience evaluation factor. As noted above, AFS's proposal contained multiple references to its intended reliance on the resources of its parent corporation. Further, in our view, the agency's evaluation record and source selection decision provide ample support for the agency's determination that AFS's experience was slightly superior to Deloitte's, based solely on AFS's performance of the prior FFE task order. Accordingly, Deloitte's protest challenging the agency's evaluation under the relevant experience factor is denied.

### Evaluation of Cost Realism

Finally, Deloitte asserts that the agency's cost realism evaluation of AFS's proposed labor rates was unreasonable. In this regard, Deloitte maintains that the agency "improperly relied upon 'historical data' rather than 'current payroll data' as required by the TORP," and/or that the agency's scrutiny of AFS's proposed costs was insufficient. Deloitte Comments/Supp. Protest, June 24, 2021, at 25.

The agency responds that the solicitation specifically contemplated a broad range of information that offerors could submit in support of their proposed costs. First, the solicitation sought the submission of forward pricing rate agreements (FPRA) and, for labor categories not covered by an FPRA, offerors were permitted to submit "available current payroll data (*i.e.* paystubs for named individuals and screenshots for internal labor category classifications)." Finally, where payroll data was unavailable, the solicitation provided that "offerors shall provide other justification to support the proposed direct labor rates," and added that "[o]ther justification can include the mapping to commercial rates . . . derived from comparison tools commercially available (*e.g.* salary.com, indeed.com, etc.)." Supp. MOL at 7-14; see AR, Tab 1ff, TORP Instructions/Evaluation Factors, at 11-12.

The agency further states that AFS submitted payroll data for its most recent (November 2020) forward pricing rate recommendation from the Defense Contract Management Agency, which was for fiscal year 2019, and escalated that data to calculate current-year labor rates. Supp. MOL at 7-14; See AR, Tab 2vv, AFS Cost/Price Proposal at 3. In evaluating AFS's proposed rates, the agency determined that "the historical data provided by Accenture maps the proposed labor rates to actual Accenture employee[s] labor rates" and concluded that "[b]ased on the evidence provided, the CO [contracting officer] finds the proposed labor rates to be realistic." AR, Tab 4g, Post Negotiation Memo at 32.

As discussed above, in construing the provisions of a solicitation, we will first look to the solicitation's plain language. See, *e.g.*, *Manhattan Telecomm. Corp.*, *supra*; *ZolonTech, Inc.*, *supra*. Furthermore, while an agency must perform a cost-realism assessment in awarding cost-reimbursement contracts (or task orders), that assessment need not

achieve scientific certainty. Rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the rates proposed are realistic in view of other cost information reasonably available to the agency at the time of its evaluation. *OBXtek, Inc.*, B-419478, B-419478.2, Mar. 23, 2021, 2021 CPD ¶ 156 at 5; *ATA Aerospace, LLC*, B-417427.2, Mar. 6, 2020, 2020 CPD ¶ 96 at 5. Our review of an agency's cost-realism assessment is limited to determining whether the assessment was reasonable, and a protester's disagreement with the agency's judgment, without more, does not provide a basis to sustain the protest. *AECOM Mgmt. Servs., Inc.*, B-418467 *et al.*, May 15, 2020, 2020 CPD ¶ 172 at 4.

Based on our review of the record here, it is clear that the solicitation permitted offerors to submit a broad range of cost/price information, including "other justification to support the proposed direct labor rates." Accordingly, we find no merit to Deloitte's assertion that AFS's proposal failed to comply with the solicitation requirements. Further, based on our review of the agency's contemporaneous documentation of its cost-realism assessment, including its consideration of all the data AFS submitted, we do not question the reasonableness of the agency's conclusion that AFS's proposed labor rates were realistic. Deloitte's protest challenging the agency's evaluation in this regard is denied.

The protest is sustained in part and denied in part.

#### RECOMMENDATION

We recommend that the agency reevaluate proposals consistent with the terms of the solicitation as they relate to transition, and make a new selection decision. Alternatively, if the terms of the solicitation do not reflect the agency's requirements, it should revise the solicitation, conduct discussions with the offerors; solicit, receive, and evaluate revised proposals; and make a new source selection decision. We also recommend that Deloitte be reimbursed the costs associated with filing and pursuing its protest, including reasonable attorneys' fees. Deloitte should submit its certified claim for such costs, detailing the time spent and the costs incurred, directly to the agency within 60 days of receiving this decision.

Edda Emmanuelli Perez  
General Counsel