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## Decision

**Matter of:** Johnson Controls Security Solutions

**File:** B-418489.3; B-418489.4

**Date:** September 15, 2020

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David R. Johnson, Esq., Tyler E. Robinson, Esq., and John M. Satira, Esq., Vinson & Elkins, LLP, for the protester.

John R. Prairie, Esq., Cara L. Lasley, Esq., Moshe B. Broder, Esq., and Nicholas L. Perry, Esq., Wiley Rein LLP, for M.C. Dean, Inc., the intervenor.

C. Joseph Carroll, Esq., Department of Justice, for the agency.

Todd C. Culliton, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest that agency unreasonably evaluated technical proposals is denied where the record shows that the evaluations were consistent with the solicitation's terms and conditions, as well as applicable procurement statutes and regulations.
  2. Protest that the agency unequally evaluated the protester's proposal is denied where the record shows that the agency's judgments were based on differences in the quality of the proposals.
  3. Protest that the agency unreasonably evaluated the protester's past performance is denied where the record shows that the protester had demonstrated mostly moderate performance, supporting the agency's evaluation.
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### DECISION

Johnson Controls Security Solutions, of Alexandria, Virginia, protests the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract to M.C. Dean, Inc., of Tysons, Virginia, under request for proposals (RFP) No. 15M20019RA32NPS03, issued by the Department of Justice, United States Marshals Service (USMS), for management and

installation services.<sup>1</sup> Johnson alleges that the agency unreasonably evaluated proposals, and improperly made its source selection decision.

We deny the protest.

## BACKGROUND

On June 6, 2019, the USMS issued the solicitation to procure management and installation services to support the National Physical Security Program, which provides inspection, maintenance, installation, and repair services to physical security equipment located in federal courthouses and other facilities throughout the country. Agency Report (AR), Tab 5, RFP amend. 4, attach. 1, Performance Work Statement (PWS) at 1, 3. The RFP contemplated the issuance of fixed-price and time-and-materials task orders to be performed over a 1-year base period and four 1-year option periods. AR, Tab 5, RFP, amend. 4, at 4-8, 53. The RFP specified that the total value of all orders placed against this contract may not exceed \$200 million. AR, Tab 5, RFP, amend. 4, at 24.

Award would be made on a best-value tradeoff basis considering three factors, listed in descending order of importance: technical and management approach, past performance, and, price. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria, at 1. The technical and management approach factor contained three equal subfactors: technical approach, management approach and staffing plan, and sample request for quotations (RFQ) technical proposals. *Id.*

When describing its technical approach, each offeror was instructed to articulate how it would satisfy the RFP's requirements. AR, Tab 3, RFP, amend. 2, attach. 6, Instructions to Offerors at 7. Each offeror was to demonstrate its technical understanding of the agency's requirement, show that its technical approach will result in quality performance, and describe proposed innovations. *Id.* The agency was to evaluate each proposal based on whether the technical approach was adequate, and how well each offeror would be expected to perform. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 3.

As for the management approach and staffing plan subfactor, each offeror was to discuss its methodology for planning, organizing, directing and controlling its resources in order to perform the requirement effectively. AR, Tab 3, RFP, amend. 2, attach. 6, Instructions to Offerors at 7. Each offeror was to describe its organizational structure, communications process, risk management protocols, innovative business management practices, and quality control plan. *Id.* at 7-8. When evaluating each offeror's management plan approach and staffing plan, the agency would assess whether the firm proposed a comprehensive approach to managing the work requirements and

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<sup>1</sup> Johnson is the incumbent contractor, and has performed these services for the past 29 years. Protest at 2.

whether the staffing plan ensured adequate coverage throughout the requirement. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 3-4.

For the sample RFQ technical proposals subfactor, the RFP instructed each offeror to submit a mock technical proposal in response to a sample RFQ. AR, Tab 3, RFP, amend. 2, attach. 6, Instructions to Offerors at 8. Under this subfactor, the agency would evaluate how well each offeror articulated an adequate approach to the sample RFQ. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 4.

All non-price factors, when combined, were significantly more important than price, but price was more important when proposals contained similar non-price ratings. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 1. The RFP included a color/adjectival rating system, consisting of the following rating combinations: blue/outstanding, purple/good, green/acceptable, yellow/marginal, and red/unacceptable. *Id.* at 2.

Four offerors, including Johnson and M.C. Dean, submitted proposals prior to the August 26, 2019, close of the solicitation period. AR, Tab 15, Post-Corrective Action Source Selection Decision Memorandum (SSDM) at 6. The agency's evaluation produced the following relevant results:

	<b>M.C. Dean</b>	<b>Johnson</b>
<b>Technical and Management Approach</b>	Purple/Good	Green/Acceptable
• <b>Technical Approach</b>	Blue/Outstanding	Purple/Good
• <b>Management Approach and Staffing Plan</b>	Purple/Good	Green/Acceptable
• <b>Sample RFQ Technical Proposals</b>	Purple/Good	Green/Acceptable
<b>Past Performance</b>	Substantial Confidence	Satisfactory Confidence
<b>Price</b>	\$1,415,628	\$1,629,222

*Id.* at 6, 16. Based on the evaluation, the source selection authority (SSA) determined that M.C. Dean represented the best overall value. *Id.* at 16. The SSA did not conduct a tradeoff analysis because M.C. Dean offered the best technical approach, better past performance, and a lower price than all of the other offerors. *Id.* When considering the remaining proposals, the SSA ranked Johnson's proposal as third overall. *Id.* After learning that its proposal was unsuccessful, Johnson filed the instant protest.<sup>2</sup>

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<sup>2</sup> Johnson filed a previous protest challenging the agency's evaluation. *Johnson Controls Security Solutions*, B-418489, B-418489.2, Apr. 14, 2020 (unpublished decision). In response, the agency reevaluated proposals and made a new source selection decision. *Id.*; see also AR, Tab 13, Revised Technical Evaluation (TEB) Report; AR, Tab 15, Revised SSDM. The reevaluation and new source selection decision are the subject of this protest.

## DISCUSSION

Johnson challenges multiple aspects of the agency's evaluation and the source selection decision. Johnson asserts that the agency unequally evaluated its proposal under the technical and management approach factor, and misevaluated its past performance. Johnson also asserts that the agency unreasonably evaluated M.C. Dean's technical and management approach. We have reviewed all of Johnson's allegations, and conclude that none provides us with a basis to sustain the protest. We discuss the principal allegations below, but note, at the outset, that in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *SaxmanOne, LLC*, B-414748, B-414748.3, Aug. 22, 2017, 2017 CPD ¶ 264 at 3. To the extent we do not discuss any particular allegation, it is denied.<sup>3</sup>

### Johnson's Evaluation

Johnson raises numerous challenges to the evaluation of its technical proposal. Johnson first alleges that the agency unreasonably evaluated its proposal under the technical approach, and sample RFQ subfactors. Johnson then alleges that the agency unequally evaluated its and M.C. Dean's proposals under the technical approach, and management approach and staffing plan subfactors. We discuss these challenges in turn.

### Johnson's Technical Approach

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<sup>3</sup> In its protest, Johnson alleged that the agency unreasonably evaluated its proposal under the management approach and staffing plan subfactor. The protester also alleged that the agency unreasonably evaluated M.C. Dean's proposal under the sample RFQ technical proposals subfactor. Protest at 23-24, 27-29. The agency responded to both of these allegations in its report. Memorandum of Law (MOL) at 22-23, 25-29. Johnson did not offer any rebuttal to the agency's positions with respect to those allegations in its comments. See *generally* Comments and Supp. Protest.

Where, as here, an agency responds to allegations in its report but the protester does not rebut the agency's positions in its comments, we dismiss the allegations as abandoned because the protester has not provided us with a basis to find the agency's positions unreasonable. *Medical Staffing Solutions USA*, B-415571, B-415571.2, Dec. 13, 2017, 2017 CPD ¶ 384 at 3. Thus, since Johnson did not respond to the agency's position in its comments, we dismiss these two allegations as abandoned.

The USMS assigned Johnson's proposal a rating of "purple/good" for the technical approach subfactor, and evaluated the firm's technical approach as demonstrating six significant strengths, and two weaknesses. AR, Tab 13, Revised TEB Report at 8-9. The first weakness was assigned because Johnson's technical approach did not comply with a requirement that active vehicle barrier (AVB) technicians possess original equipment manufacturer (OEM) certifications. *Id.* at 9. The second weakness was assigned because Johnson's technical approach did not demonstrate that the firm would maintain a physical project binder as required by the PWS. *Id.*

Johnson complains that the first weakness was unreasonable because its proposal complied with the requirement that AVB technicians possess OEM certifications. Consistent with the agency's position, we do not find that argument persuasive.

The PWS requires the selected contractor to provide AVB technicians with certifications from the relevant OEM. AR, Tab 5, RFP, amend. 4, attach. 1, PWS at 30; see *also* MOL at 19. Johnson's proposal, however, does not demonstrate compliance with this requirement.

Instead, Johnson proposed to maintain corporate certifications for all AVB manufacturers, and either self-perform or oversee any repairs. AR, Tab 6, Johnson Technical Proposal at A-29 ("We feel the most reasonable approach to bridging this gap between industry standards and the requirements of the PWS is for [the firm's subcontractor] to maintain its corporate certifications of all associated barrier manufacturers."). Johnson further explained that it understood the agency's desire to have a nationwide network of AVB technicians with OEM certifications but that the costs were too high. *Id.* While Johnson may argue that it demonstrated an understanding of the requirement to employ certified technicians even though it proposed an alternate solution, we are not persuaded that the agency unreasonably assigned a weakness because the firm's proposal does not fully commit to the agency's requirement as stated in the PWS. *Id.* ("We fully understand the USMS's desire to have a nationwide network of technicians who are factory certified on the equipment they will be working on. Achieving this goal will be a top priority upon award; however the logistics and costs associated with factory certifications are not trivial and must be negotiated up-front or throughout the term of the contract.").

To the extent the protester alternatively asserts that the weakness is unreasonable because it is inconsistent with one of the strengths assigned, we also do not find this position persuasive. Protest at 20-21. Although Johnson was assigned a strength because its AVB technicians have access to video calling applications to seek additional support from senior technicians, we do not find that the evaluation is inconsistent in assigning both this strength and a weakness for the lack of OEM certifications for its AVB technicians. AR, Tab 13, Revised TEB Report at 8-9. While both involve the AVB technicians, the strength and weakness concern different aspects of the firm's plan to employ AVB technicians. *Id.* Whereas the strength was assigned because the firm provides technicians with accessible resources to address difficult problems, the weakness was assigned because Johnson did not demonstrate that it would employ

certified AVB technicians. *Id.* Thus, the strength involves providing the technicians with additional support, but the weakness concerns the technicians' underlying credentials. Accordingly, we deny this protest allegation because we agree with the agency that the assigned strength and weakness are unobjectionable. MOL at 20 (asserting that the protester's argument "makes no sense").

Johnson also complains that the agency mischaracterized its proposal in assigning the second weakness. Protest at 21. Specifically, Johnson asserts that its proposal demonstrated compliance with the PWS requirement that the selected contractor maintain a physical project binder. Comments and Supp. Protest at 31. The agency responds that Johnson's technical approach did not unequivocally state that it would maintain a physical project binder. MOL at 20.

On this record, we have no basis to object to the evaluation. The PWS required the selected contractor to maintain both electronic and physical project binders. AR, Tab 5, RFP, amend. 4, attach. 1, PWS at 16. The project binder would include multiple documents, such as the project summary; budget record; change management records; photographs; lessons learned; and, close out documents. *Id.*

Despite the requirement to maintain both versions, Johnson's proposal explains that it maintains an electronic version and will keep a physical version only if necessary. AR, Tab 6, Johnson's Technical Proposal at A-25. During an active project, Johnson will use the electronic binder as a "living document" (*i.e.*, update it periodically with change orders and close-out orders) to guide performance. *Id.* Further, Johnson explains that it will maintain a physical version, if required by task order, but that it recommends maintaining only the electronic version. *Id.* ("Johnson Controls can keep a hard copy if required by task order, but we recommend that all documents be maintained in electronic form and printed only as needed.").

While Johnson may assert that it indicated a willingness to maintain a physical version, the agency counters that the proposal only commits to maintaining the version if required by task order which is inconsistent with the PWS requirement. MOL at 20. Thus, because Johnson's proposal does not commit to maintaining a physical project binder, we do not find the evaluation objectionable.

Further, we note that there is a difference between willingness and commitment. Given that Johnson only demonstrated a begrudging willingness to meet the requirement since the firm extolled the virtues of maintaining electronic versions and criticized physical versions, we do not think the agency's concern about Johnson's compliance with this requirement was unwarranted. AR, Tab 6, Johnson Technical Proposal at A-25 ("As we transitioned our internal processes from hard copy to predominately electronic over the past decade, we discovered that material can be more readily located, document retention and control costs are greatly reduced, and the risk of data security breaches is diminished."). Accordingly, we deny the protest allegation.

Johnson's Sample RFQ Technical Proposals

Under this subfactor, Johnson complains that the agency unreasonably assigned a weakness to the firm's proposal because it erroneously concluded that the firm's proposed lead technician did not possess the requisite certifications. According to Johnson, the USMS knew that Johnson's lead technician possesses the requisite certifications due to its familiarity with the firm's performance on the incumbent contract. Protest at 32-34. As support, Johnson argues that the agency considered knowledge of its performance under the incumbent contract when assessing Johnson's past performance, and therefore should have considered its knowledge of Johnson's personnel when assessing the firm's sample technical proposal. *Id.* The agency responds that Johnson's proposal lacked the requisite certification, and that it was not required to consider outside information to fill gaps in Johnson's technical proposal. MOL at 24-25.

This subfactor required offerors to respond to three sample RFQs. The first RFQ presented a scenario where the agency solicited installation of electronic security systems for a new facility. AR, Tab 3, RFQ, amend. 2, attach. 2A, Sample RFQ (Installation) at 1. The second RFQ presented a scenario where the agency solicited maintenance services for newly-installed equipment. AR, Tab 3, RFQ, amend. 2, attach. 2B, Sample RFQ (Maintenance) at 1. The third RFQ presented a scenario where the agency needed routine camera repair and emergency physical access control systems repair. AR, Tab 3, RFQ, amend. 2, attach. 2C, Sample RFQ (Repair) at 1. The RFQ for installation services required offerors to "[p]rovide proof of any certifications of employees that are installing the equipment." AR, Tab 3, amend. 2, RFQ, attach. 2A, Sample RFQ (Installation) at 4.

Johnson's proposal was assigned three weaknesses. Relevant to the instant protest, the agency viewed Johnson's responses less favorably because the firm did not note any certification or experience information for three systems. AR, Tab 13, Revised TEB Report at 11. The agency noted that Johnson only stated that its proposed lead technician had intimate knowledge and understanding of the systems. *Id.*

We deny this allegation because an offeror's technical evaluation is purely dependent on the information furnished, rather than the failure to consider information arguably in the agency's possession regarding the assessment. *Earth Resources Tech. Inc.*, Aug. 31, 2018, 2018 CPD ¶ 312 at 6; *accord XTec, Inc.*, B-418619 *et al.*, July 2, 2020, 2020 CPD ¶ 253 at 9. Further, we do not view the fact that the agency relied on "personal knowledge" (*i.e.*, outside information) when evaluating the firm's past performance but not when evaluating the firm's technical proposal as unreasonable because the evaluations are distinct, and the agency is not permitted to consider outside information when evaluating an offeror's technical approach.<sup>4</sup> *Id.* Thus, we deny this allegation because it is without merit.

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<sup>4</sup> As discussed *infra*, the past performance evaluation does not rely on agency officials' "personal knowledge" of the firm's performance on the incumbent contract. See AR, Tab 14, Past Performance Evaluation Addendum at 3.

## Unequal Treatment

Johnson complains that the agency unequally evaluated its and M.C. Dean's proposals under the technical approach, and management approach and staffing plan subfactors. We discuss the challenges in turn.

It is a fundamental principle of government procurement that an agency must treat offerors equally, which means, among other things, that the agency must evaluate proposals in an even-handed manner. *GovernmentCIO, LLC, B-418363 et al.*, Mar. 10, 2020, 2020 CPD ¶ 102 at 8. To prevail on an allegation that the agency unequally evaluated proposals, a protester must show that the differences in ratings do not stem from differences in the proposals. *Id.* at 8-9.

Under the technical approach subfactor, Johnson argues that the agency unequally evaluated the offerors' plans to perform preventative maintenance while conducting an annual inventory. Johnson asserts that both offerors proposed to conduct the annual inventory in this manner, but that only M.C. Dean was awarded a strength on this basis.

The PWS requires the selected contractor to perform preventative maintenance throughout the course of the contract. AR, Tab 5, RFP, amend. 4, attach. 1, PWS at 4 ("Contractor is responsible for the scheduling and execution of preventive maintenance on all USMS electronic security equipment and systems."). The PWS also requires the selected contractor to conduct an enterprise-wide Inspection and Evaluation (IE) and inventory of all legacy and spare security system equipment. *Id.* at 6. The initial IE and inventory must be conducted within the first 12 months, and then subsequent IE and inventory efforts must be conducted on an annual basis. *Id.*

The USMS assigned a strength to M.C. Dean's proposal because "M.C. Dean will complete annual inventory verification and [preventative maintenance] [DELETED]." AR, Tab 13, Revised TEB Report at 4. Indeed, M.C. Dean's technical approach stated that "[DELETED]." AR, Tab 8, M.C. Dean Technical Proposal at 10.

Contrary to the protester's argument, Johnson's proposal does not contemplate conducting annual preventative maintenance visits. See MOL at 14. To illustrate, Johnson's proposal provides the following:

It is imperative that we work closely with the incoming USMS [Program Management and Operations] [c]ontractor to jointly develop the requirements and expectations of these efforts before the next round of inventories. Although the RFP suggests that the inventory must be accomplished before the next Preventative Maintenance (PM) cycle, we recommend that the next PM be performed in conjunction with this new inventory effort to reduce overall costs related to performing two independent efforts on the same equipment.



AR, Tab 6, Johnson's Technical Proposal at A-7. Because this passage only describes that Johnson seeks to perform the initial inventory in conjunction with the first preventative maintenance cycle, we do not find that the agency unequally evaluated the proposals.

To the extent Johnson points out that its proposal also provides "[u]pon Government request, we will perform an annual IE and inventory of existing security equipment," we do not find that this excerpt supports the firm's argument either. Protester's Supp. Comments at 16; see *also* AR, Tab 6, Johnson's Technical Proposal at A-8. Instead, we view this excerpt only as suggesting that Johnson intends to perform the PWS requirement for annual IE and inventory "upon request," rather than a commitment to perform annual preventative maintenance. Thus, because the offerors proposed different solutions, we conclude that the record does not support Johnson's allegation of unequal treatment in this regard.

Johnson also complains that the agency unequally evaluated the offerors' preventative maintenance plans. According to Johnson, the USMS assigned a strength to M.C. Dean's proposal because the firm proposed a preventative maintenance test procedure for specific systems and components. Comments and Supp. Protest at 27. Johnson asserts that its preventative maintenance plan contained the same testing procedure but was not evaluated similarly. *Id.*

USMS assigned a strength to M.C. Dean's proposal because the firm will provide on a yearly basis a preventative maintenance plan that identifies the frequency of testing and testing procedures for each system/component of the security equipment consistent with OEM recommendations. AR, Tab 13, Revised TEB Report at 4. Additionally, the strength was assigned because M.C. Dean based its preventative maintenance plan on the [DELETED]. *Id.*

We do not find Johnson's allegation persuasive because Johnson's preventative maintenance plan does not feature the same [DELETED], but rather is only based on the manufacturer's recommendations and the agreed-upon annual schedule. See AR, Tab 8, M.C. Dean's Technical Proposal at 6 ([DELETED]). Indeed, Johnson's preventative maintenance plan is more dependent on the firm's experience. AR, Tab 6, Johnson's Technical Proposal at A-9. Thus, we deny this protest allegation because the record does not show that the agency unequally evaluated the preventative maintenance plans since M.C. Dean's plan included different features.

As a related allegation, Johnson argues that the agency did not assign the firm credit for including a proactive approach as part of its preventative maintenance plan. Johnson asserts that M.C. Dean was evaluated favorably for this feature, but that its proposal was not similarly evaluated. Comments and Supp. Protest at 27-28. The agency responds that it did not unevenly evaluate proposals because M.C. Dean's preventative maintenance plan would [DELETED] whereas Johnson's plan did not demonstrate that same capability. Supp. MOL at 16.

M.C. Dean was assigned a strength because its preventative maintenance plan demonstrated a proactive approach. AR, Tab 13, Revised TEB Report at 4. The agency noted that M.C. Dean's technicians will [DELETED]. *Id.*

On this record, we find that the agency did not unequally evaluate proposals. Consistent with the agency's position, M.C. Dean's preventative maintenance plan supports the assignment of the strength because it plainly describes how it will include [DELETED] as part of its preventative maintenance plan. AR, Tab 8, M.C. Dean's Technical Proposal at 11. In contrast, Johnson's proposal does not mention that it will review [DELETED]. AR, Tab 6, Johnson's Technical Proposal at A-9. Rather, Johnson's proposal only provides that its technicians will clean, check, and calibrate equipment during preventative maintenance visits. *Id.*; *see also* Comments and Supp. Protest at 27-28. To the extent that Johnson argues that reviewing [DELETED] is encompassed within checking or calibrating equipment, we note that its proposal did not state that clearly, and the agency was not required to infer that Johnson's plan would [DELETED]. *See Merrill Aviation & Defense*, B-416837; B-416837.2, Dec. 11, 2018, 2018 CPD ¶ 421 at 5 (an offeror has a duty to submit a well-written proposal, and an agency has no duty to infer aspects of a firm's technical approach). Accordingly, we deny the protest allegation.

Johnson also alleges that the USMS unequally evaluated its proposal under the management approach and staffing plan subfactor. Johnson argues that its and M.C. Dean's proposals demonstrated management approaches with strong regional capabilities because they both included coverage maps. Supp. Comments at 16. The agency responds that Johnson's proposal did not merit a strength because its approach did not include the same level of detail. Supp. MOL at 18.

Regarding regional capabilities, the USMS evaluated M.C. Dean's proposal favorably because it demonstrated a detailed regional approach to maintain security systems. AR, Tab 13, Revised TEB Report at 5. The USMS noted that M.C. Dean provided a chart detailing the [DELETED]. *Id.*

We find the agency's position to be reasonable. Our review confirms that M.C. Dean's coverage map and management approach contains more detail and conveys more information. Whereas Johnson's map uses pinpoints to identify USMS and its firm's locations, M.C. Dean's map is [DELETED]. *Compare* AR, Tab 6, Johnson's Tech. Proposal at A-5 *with* AR, Tab 8, M.C. Dean's Tech. Proposal at 22.

Additionally, Johnson's narrative describing its management approach only identifies the number of local offices and total number of personnel, but does not identify specific numbers of technicians or specialists by region. AR, Tab 6, Johnson's Tech. Proposal at A-34; *see also* Supp. Comments at 16 (arguing that the firm had a nationwide approach but not identifying how its proposal included the same detail as M.C. Dean's approach). Thus, we find that the agency reasonably evaluated the proposals differently because M.C. Dean's proposal contained more detail and information about its regional approach. Accordingly, we deny the protest allegation.

## M.C. Dean's Technical Proposal

Johnson raises numerous challenges to the USMS's evaluation of M.C. Dean's technical proposal. First, Johnson argues that M.C. Dean made numerous assumptions about the project management system/inventory management system's (PMS/IMS) functionality (because the RFP did not identify the specific PMS/IMS),<sup>5</sup> and that M.C. Dean may not be able to perform in the manner proposed; thus, Johnson argues that the agency should have considered M.C. Dean's technical approach as representing a high risk of unsuccessful performance. Protester's Supp. Comments at 2. In connection with this allegation, Johnson asserts that the agency unreasonably evaluated M.C. Dean's experience with various PMS/IMS as advantageous. Comments and Supp. Protest at 15-19. Second, Johnson alleges that the USMS unreasonably evaluated [DELETED] facilities as favorable aspects of M.C. Dean's technical approach. Comments and Supp. Protest at 29-30. Third, Johnson asserts that M.C. Dean's proposal relied too heavily on subcontractors, and as a result, the agency should have evaluated the firm's proposal less favorably under the technical approach, and management approach and staffing plan subfactors. Protest at 16-19.

By way of background, M.C. Dean's technical approach was evaluated very favorably, and assigned a rating of "purple/good." Under the technical approach subfactor, M.C. Dean was assigned a rating of "blue/outstanding." AR, Tab 13, Revised TEB Report at 3. M.C. Dean was assigned eleven significant strengths against only one weakness. *Id.* at 3-4. Relevant to the protester's allegations, M.C. Dean was assigned one strength because M.C. Dean demonstrated experience with multiple different PMS/IMS, and another strength because M.C. Dean's technical approach utilized off-site [DELETED] facilities. *Id.* at 3-4. The USMS did not assign any risk to M.C. Dean's technical approach based on its proposed use of subcontractors. *Id.* Nor did the USMS assign any risk to the firm's management approach or staffing plan based on the firm's proposed use of subcontractors. *Id.* at 5-6.

As to Johnson's complaints that the agency miscalculated M.C. Dean's technical approach with regard to the firm's experience or discussion of the PMS/IMS, we do not find that these arguments provide us with a basis to sustain the protest. First, the agency reasonably assigned a strength based on the firm's level of experience because the RFP's evaluation criteria required the agency to assess an offeror's expected quality of performance. See MOL at 11; see also AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 3. Further, M.C. Dean's proposal shows that the firm has significant experience [DELETED] in multiple PMS/IMS. AR, Tab 8, M.C. Dean Technical Proposal at 1 ([DELETED]). Thus, we conclude that the agency reasonably considered M.C. Dean's experience with different PMS/IMS because the determination

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<sup>5</sup> Although the PWS required the selected contractor to use a PMS/IMS, the RFP did not identify the specific systems that would be used. AR, Tab 5, RFP, amend. 4, attach. 1, PWS at 16; AR, Tab 3, RFP, amend. 2, attach. 12, Maintenance Questions at Question 52.

is consistent with RFP's evaluation criteria, and supported by M.C. Dean's technical proposal.

Second, we do not find that the agency unreasonably failed to assign risk to M.C. Dean's proposal because the firm discussed different ways it would use the PMS/IMS. The record shows that the agency considered M.C. Dean's technical approach as not presenting any appreciable risk in this regard. Supp. MOL at 6. The agency explains that the firm's approach contemplated using the PMS/IMS to perform standard functions, such as [DELETED]. AR, Tab 8, M.C. Dean Technical Proposal at 3-6, 10-12, 20-21; see also Supp. MOL at 4-6. Although the firm made some assumptions about the PMS/IMS's specific functionality [DELETED], the agency explains these functions are extensions or derivations of standard PMS/IMS functionality. See Supp. MOL at 5-6. Thus, we find that the agency reasonably did not assign risk to M.C. Dean's technical approach because the record shows that M.C. Dean planned to use the PMS/IMS to perform standard and expected functions.<sup>6</sup>

Next, we do not find persuasive Johnson's allegation that the agency unreasonably viewed M.C. Dean's [DELETED] facilities as advantageous features. Comments and Supp. Protest at 29-30. The agency explains that the facilities are beneficial because the firm will be able to [DELETED] improving new installation and non-routine maintenance. Supp. MOL at 21.

We find the agency's position to be unobjectionable because [DELETED] that can immediately ship will enhance the efficiency of installation or repair services. See AR, Tab 8, M.C. Dean's Tech. Proposal at 9. While Johnson argues that the facility is [DELETED] and therefore insignificant [DELETED], we do not find that position

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<sup>6</sup> Moreover, we do not see how Johnson was prejudiced by the agency's alleged failure to assign a weakness for M.C. Dean's assumptions concerning the PMS/IMS's specific functionality. Competitive prejudice is an essential element of every viable protest, and we will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions. *Orbit Research, LLC*, B-417462, July 17, 2019, 2019 CPD ¶ 258 at 7.

Here, M.C. Dean was assigned eleven significant strengths and none would be obviated by the assignment of this weakness; further, and more importantly, the SSA did not rely on M.C. Dean's proposed uses of the PMS/IMS to inform her decision, but rather noted M.C. Dean's superior process for installation, equipment testing, inventory check, and proposed use of [DELETED] facility as distinguishing features. AR, Tab 13, Revised TEB Report at 3-5; AR, Tab 15, Revised SSDM at 10. Thus, because the evaluation and tradeoff analysis would not be affected, we do not find that the assignment of one additional weakness in this regard would realistically improve Johnson's competitive position. See *Booz Allen Hamilton, Inc.*, B-417418 *et al.*, July 3, 2019, 2019 CPD ¶ 246 at 11-12 (protester was not prejudiced by the agency's failure to assign one additional weakness to the awardee's technical proposal). Accordingly, we deny the protest allegation.

persuasive because it simply disagrees with the agency's judgment regarding whether M.C. Dean's facility will improve the firm's installation and non-routine maintenance services. See *Metson Marine Servs., Inc.*, B-413392, Oct. 19, 2016, 2016 CPD ¶ 313 at 3 ("A protester's disagreement with the agency's evaluation judgments, by itself, does not render those judgments unreasonable. An agency is afforded discretion in technical evaluations, as the agency is responsible for defining its needs and for identifying the best method for accomplishing them in performance.") (internal citation omitted). Accordingly, we deny this allegation.

In addition, we do not find persuasive Johnson's allegation that the agency should have assigned risk to M.C. Dean's proposal under the technical approach, and management approach and staffing plan subfactors because the firm planned to use an "extreme" number of subcontractor technicians. Protest at 16-19; Comments and Supp. Protest at 19.

First, as described above, the RFP does not contain any evaluation criteria requiring the agency to evaluate an offeror's reliance on subcontractors. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 3-4. The RFP required the agency to assess whether each offeror could perform a nationwide contract, but does not state that an offeror cannot meet that requirement through the use of subcontractors. *Id.*; see also *Sigmattech, Inc.*, B-415028.3, B-415028.4, Sept. 11, 2018, 2018 CPD ¶ 336 at 7 ("[I]n the absence of an express provision in the [solicitation] stating that the agency would assess risk based on the use of subcontractors, we find no basis to conclude that the agency unreasonably failed to assign such risk.").

Second, the record shows that the agency understood that M.C. Dean would employ a technical approach and staffing plan heavily reliant on subcontractor technicians. MOL at 17-18. As a result, even though the protester brainstorms numerous risks that the agency must have failed to consider, we do not find its effort persuasive because the agency considered the approach thoroughly. *Id.* at 17 ("The USMS understood this approach and evaluated it. The USMS determined that M.C. Dean's proposed Management Approach and Staffing Plan, which included its subcontractor management processes, displayed a 'thorough approach and understanding of the [RFP's] requirements.'"). Thus, we deny this allegation because the USMS considered M.C. Dean's approach consistent with the evaluation criteria.<sup>7</sup>

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<sup>7</sup> We note that the protester raises a few arguments about the quality of M.C. Dean's subcontractors. Primarily, Johnson asserts that M.C. Dean's subcontractor technicians will disregard M.C. Dean's instructions, or otherwise deliberately disobey the firm's technical approach, because they are employed on an episodic basis. Comments and Supp. Protest at 24-25. We view such arguments as disagreeing with the agency's evaluation because they take issue with the agency's judgment regarding whether M.C. Dean could successfully perform while relying on subcontractor technicians, and does not show that the evaluation was inconsistent with the RFP. This argument does not provide us with a basis to sustain the protest. *Metson Marine Servs., Inc.*, *supra*.

## Past Performance

Johnson complains that the USMS unreasonably evaluated its record of past performance. Specifically, Johnson argues that its past performance should have been viewed more favorably because its record of performance on the incumbent contract is overwhelmingly positive, and dictates that the firm should have been assigned a higher adjectival rating. Comments and Supp. Protest at 34-36.

Where a protester challenges an agency's past performance evaluation, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria. *Enterprise Servs. LLC, et al.*, B-415368.2 *et al.*, Jan. 4, 2018, 2018 CPD ¶ 44 at 11. An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the assessment is unreasonable or inconsistent with the solicitation criteria. *Id.* at 11-12.

Each offeror was instructed to submit at least three references for past or current contracts demonstrating performance similar to the agency's requirement. AR, Tab 3, RFP, amend. 2, attach. 6, Instructions to Offerors at 9. The RFP also instructed that the agency may use additional sources to evaluate an offeror's past performance. *Id.* The RFP advised that the agency would evaluate recent (*i.e.*, completed or performed within the past three years) and relevant (*i.e.*, similar in size, scope, and complexity) past performance to assess how likely an offeror will successfully perform the requirement. AR, Tab 3, RFP, amend. 2, attach. 7, Evaluation Criteria at 4. The RFP provided that the agency would assign one of the following adjectival ratings: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, and no confidence. *Id.* at 4-5. Relevant to the allegation, a rating of satisfactory confidence denoted that the agency had a reasonable expectation that the offeror will successfully perform the requirement. *Id.* at 4.

Johnson identified seven contracts demonstrating its past performance. AR, Tab 7. Johnson Business Proposal at 1-12. The agency assigned a rating of "satisfactory confidence" to the firm's past performance. AR, Tab 14, Past Performance Evaluation Addendum at 1. The agency assigned that rating because Johnson received mostly "satisfactory" and "very good" ratings on its contractor performance assessment reporting system (CPARS) reviews. *Id.* at 2-3. In its evaluation, the agency also noted that Johnson had failed to submit at least two deliverables (*i.e.*, an inventory report and a phase-out transition plan) during its course of performance on the incumbent contract. *Id.*

On this record, we find the agency's evaluation unobjectionable. The record shows that Johnson's CPARS demonstrated mostly "satisfactory" or "very good" performance. AR, Tab 12, Johnson's CPAR List. Johnson may assert that it had stellar past performance warranting a higher evaluation, but we cannot say the agency's evaluation was unreasonable given that Johnson's record demonstrates mostly moderate performance. *Id.*; see also AR, Tab 14, Past Performance Evaluation Addendum at 2-3. To the extent

that Johnson complains that the agency unreasonably based its conclusion on the firm's failure to provide minor deliverables on the incumbent contract, we note that those issues apparently did not factor into the agency's ultimate evaluation; indeed, the agency expressly noted that "[n]otwithstanding these issues with the incumbent contract, [Johnson] has an overall satisfactory performance record[.]" AR, Tab 14, Past Performance Evaluation Addendum at 3. Thus, we find the agency's evaluation reasonable because the determination was consistent with Johnson's record of performance. Accordingly, we deny the protest allegation.

#### Source Selection

As a final matter, Johnson alleges that the source selection decision was unreasonable because it was predicated on multiple errors in evaluation process. Specifically, Johnson argues that the agency's decision not to conduct a tradeoff analysis and subsequent source selection decision were flawed because that determination was based on unreasonable technical and past performance evaluations. Protest at 32. We dismiss this allegation because it is derivative of the protester's challenges--which we have denied--to the agency's evaluations of Johnson's and M.C. Dean's proposals. *Safeguard Base Operations, LLC*, B-415588.6, B-415588.7, Dec. 14, 2018, 2018 CPD ¶ 426 at 4.

The protest is denied.

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