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Comptroller General  
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United States Government Accountability Office  
Washington, DC 20548

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## Decision

**Matter of:** Social Impact, Inc.

**File:** B-412941; B-412941.2

**Date:** July 8, 2016

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Holly A. Roth, Esq., Reed Smith LLP, and William M. Jack, Esq., Elizabeth C. Johnson, Esq., and Amba M. Datta, Esq., Kelley Drye & Warren LLP, for Management Systems International, Inc., an intervenor.

John B. Alumbaugh, Esq., United States Agency for International Development, for the agency.

Matthew T. Crosby, Esq., April Y. Shields, and Glenn G. Wolcott, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest challenging agency's acceptance of awardee's organizational conflict of interest mitigation plan is denied where the record reflects that the contracting officer reviewed the plan and, after requesting various revisions, reasonably determined that its procedures--including the use of firewalls and subcontractors--adequately avoided, neutralized, or mitigated potential conflicts of interest.

2. Protest challenging agency's evaluation of the realism of awardee's proposed labor costs is denied where the record reflects that the agency reasonably determined the costs to be realistic based on an analysis of salary histories, the government's local compensation plan, and current market rates.

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### DECISION

Social Impact, Inc., of Arlington, Virginia, protests the award of a contract to Management Systems International, Inc. (MSI), also of Arlington, Virginia, by the United States Agency for International Development (USAID) under request for proposals (RFP) No. SOL-497-15-000010 for monitoring and evaluation services in support of USAID programs in Indonesia. Social Impact alleges that the agency failed to mitigate organizational conflicts of interest (OCI) on the part of MSI. Social Impact also alleges that the agency's cost realism analysis was unreasonable and that various other aspects of the source selection process were flawed.

We deny the protest.

## BACKGROUND

The solicitation, issued on February 25, 2015, contemplated the award of a cost-plus-fixed-fee contract with a base period of three years and two one-year options. RFP at 7-8. The solicitation sought “monitoring and evaluation . . . and other relevant technical and/or advisory services” in support of a five-year USAID “Country Development Cooperation Strategy” program in Indonesia. Id. at 13. The monitoring and evaluation services were to “provide evidence as to whether the intended impact [of USAID programing] was achieved and [to] inform[] future policy direction, the budget, and the other core components of the [USAID] Program Cycle.” Id. at 12. The solicitation included a statement of work (SOW) outlining the needed services. Id. at 11-22.

The solicitation provided that the award would be made on a best-value tradeoff basis, considering cost and the following four technical factors: technical approach, key personnel and staffing pattern, management and monitoring plan, and past performance. RFP at 95, 99. The technical approach and key personnel and staffing pattern factors were stated to be “equally important and together constitute the significant majority ranking for proposals.” Id. at 95. The management and monitoring plan and past performance factors were stated to be equally important to each other, and less important individually than the other two factors. Id. Cost was stated to be less important than the technical factors, but the solicitation advised that cost would “remain[] important as part of the Agency’s best value/tradeoff analysis.” Id. at 99.

Detailed evaluation criteria were provided for the technical factors as well as cost. RFP at 95-100.<sup>1</sup> As relevant here, the cost evaluation criteria included the consideration of the realism of an offeror’s proposed costs. Id. at 99.

The solicitation included several provisions addressing OCIs. First, the SOW, as amended, provided that the successful offeror “will not be eligible to conduct any evaluations that include examinations of awards for which they are an implementing partner, whether as a prime contractor or subcontractor.” RFP, amend. No. 01, at 1. Second, the solicitation included a USAID Acquisition Regulation clause providing that if, after award, the successful offeror discovers an actual or potential OCI related to the contract, the firm must avoid, eliminate, or mitigate the conflict. RFP at 59-60. Finally, the solicitation included a clause authorizing the contracting

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<sup>1</sup> For the technical factors, the solicitation provided definitions for adjectival ratings of outstanding, very good, satisfactory, poor, unacceptable, and, as applicable only to past performance, neutral. RFP at 97-99.

officer to restrict the successful offeror from performing certain types of work in the future if the work might give rise to an OCI. RFP at 46-47.

The agency received a number of proposals by the solicitation's closing date, including proposals from Social Impact and MSI. Agency Report (AR), Tab 41, Source Selection Decision Document (SSDD), at 2. Following an evaluation by a technical evaluation committee (TEC), the agency established a competitive range of four offerors, including Social Impact and MSI. Id. at 5. After conducting discussions, the agency requested and received final proposal revisions from the competitive range offerors. Id.

When the evaluation process was complete, the competitive range proposals were assigned final ratings under the technical factors as well as final overall technical ratings. AR, Tab 41, SSDD, at 7-8. The proposals also were ranked by technical merit and most probable cost. Id. at 7, 20. MSI's proposal was ranked first in technical merit and cost (*i.e.*, the lowest probable cost), whereas Social Impact's proposal was ranked second in technical merit and fourth in cost (*i.e.*, the highest probable cost). Id. The two proposals' ratings and evaluated costs are shown in the table below.

	<b><u>Social Impact</u></b>	<b><u>MSI</u></b>
<b>Technical Approach</b>	Outstanding	Outstanding
<b>Key Personnel and Staffing Pattern</b>	Outstanding	Outstanding
<b>Management and Monitoring Plan</b>	Outstanding	Outstanding
<b>Past Performance</b>	Very Good	Very Good
<b>Overall Technical Rating</b>	Outstanding	Outstanding
<b>Proposed Cost</b>	\$16,303,779	\$13,488,183
<b>Most Probable Cost</b>	\$15,963,273	\$13,369,557

Id. at 7-8, 20.

An acquisition specialist prepared an SSDD that described the technical attributes of the competitive range proposals in detail. AR, Tab 41, SSDD, at 9-19. The SSDD also included a best-value tradeoff analysis in which MSI's highest-technically-ranked, lowest-cost proposal was determined to represent the best value to the government. Id. at 20-22. After reviewing the evaluation materials and consulting with the TEC, the contracting officer, who also served as the source selection authority, agreed that MSI's proposal represented the best value to the government and approved the SSDD. Id. at 1, 23.

Approximately six weeks before approving the SSDD, the contracting officer learned that MSI recently had been acquired by Tetra Tech, Inc. Contracting Officer's

Statement at 3. The contracting officer then sent MSI a letter stating that Tetra Tech is one of USAID's "most active partners" and is "currently implementing two large USAID projects in Indonesia." AR, Tab 36, USAID Ltr. to MSI (Jan. 29, 2016), at 1. Accordingly, the letter requested that MSI submit an OCI mitigation plan. Id.

One week later, MSI submitted an OCI mitigation plan. AR, Tab 37, Initial MSI OCI Mitigation Plan. Over the next month, the agency and MSI communicated regarding clarifications and revisions to the OCI plan. See AR, Tab 51, OCI Mem., at 3-6. At the conclusion of this process, the contracting officer documented her approval of the OCI plan in a memorandum to the file. Id. at 6.

Following these events, the award was made to MSI. After receiving a written debriefing, Social Impact filed a protest with our Office.

## DISCUSSION

Social Impact alleges that the agency failed to mitigate two types of OCIs on the part of MSI. Social Impact also alleges that the agency's cost realism analysis was unreasonable and that various other aspects of the source selection process were flawed. Below we address the firm's allegations in turn.

### Organizational Conflicts of Interest

Social Impact alleges that MSI's OCI plan does not adequately mitigate impaired objectivity and unequal access to information types of OCI. The Federal Acquisition Regulation (FAR) requires that contracting officials avoid, neutralize, or mitigate potential significant conflicts of interest to prevent an unfair competitive advantage or the existence of conflicting roles that might impair a contractor's objectivity. FAR §§ 9.504(a), 9.505. The situations in which OCIs arise, as described in FAR subpart 9.5 and the decisions of our Office, can be broadly categorized into three groups: (1) impaired objectivity, (2) unequal access to information, and (3) biased ground rules. An impaired objectivity OCI arises where a firm's ability to render impartial advice to the government would be undermined by the firm's competing interests. See FAR § 9.505(a); Int'l Bus. Machs. Corp., B-410639, B-410639.2, Jan. 15, 2015, 2015 CPD ¶ 41 at 6; QinetiQ N. Am., Inc., B-405008, B-405008.2, July 27, 2011, 2011 CPD ¶ 154 at 8. An unequal access to information OCI exists where a firm has access to nonpublic information as part of its performance of a government contract, and where that information may provide the firm with a competitive advantage in a later competition for a government contract. See FAR § 9.505(b); Int'l Bus. Machs. Corp., supra, at 5-6; QinetiQ N. Am., Inc., supra, at 7.

As previously discussed, the solicitation here calls for monitoring and evaluation services to assist USAID in assessing whether the intended results of its programs in Indonesia are being achieved. RFP at 12. As also discussed, MSI's parent company--Tetra Tech--has a prominent role in implementing USAID programs in

Indonesia. AR, Tab 36, USAID Ltr. to MSI (Jan. 29, 2016), at 1. Since MSI's performance of the contract will involve monitoring and evaluating USAID programs in Indonesia, Social Impact argues that MSI "will be in a position . . . to evaluate the work of its ultimate parent company," thus creating an impaired objectivity OCI. Protest at 6. Social Impact also argues that MSI, through its performance of the contract, will obtain "proprietary and cost-related information" of Tetra Tech's competitors in Indonesia and the region. Id. at 9. Social Impact contends that this information will give Tetra Tech a competitive advantage in future competitions for USAID contracts, thereby creating an unequal access to information OCI. Id.

As stated previously, the contracting officer reviewed and approved an OCI plan submitted by MSI. See AR, Tab 51, OCI Mem. Social Impact raises numerous arguments as to why the firm believes the contracting officer's acceptance of MSI's OCI plan was unreasonable. We have considered all of Social Impact's arguments, and we conclude, based on the record, that none has merit. Below we discuss the firm's principal contentions. At the outset, however, we observe that our Office reviews an agency's OCI investigation for reasonableness, and where an agency has given meaningful consideration to whether a significant conflict of interest exists, we will not substitute our judgment for the agency's, absent clear evidence that the agency's conclusion is unreasonable. See Int'l Bus. Machs. Corp., supra, at 6; QinetiQ N. Am., Inc., supra, at 8. We further observe that the identification of conflicts of interest is a fact-specific inquiry that requires the exercise of considerable discretion. See Int'l Bus. Machs. Corp., supra; QinetiQ N. Am., Inc., supra.

Here, the OCI memorandum executed by the contracting officer recognizes the potential for OCIs arising from Tetra Tech's ownership of MSI, and it explains why, in her view, MSI's OCI plan adequately mitigates the potential OCI. AR, Tab 51, OCI Mem. The memorandum begins by discussing the solicitation's OCI provisions. Id. at 1-2. It then discusses how the agency, upon learning of Tetra Tech's ownership of MSI, decided that in addition to those provisions, an OCI mitigation plan was necessary. Id. at 2. Next, the memorandum discusses how the contracting officer, the TEC chair, and office of general counsel representatives reviewed MSI's initial OCI plan and identified various concerns with it. Id. at 2-3. The memorandum concludes by describing how, after two rounds of revisions to the plan, these concerns were addressed to the agency's satisfaction. See id. at 3-6.

With regard to MSI's OCI plan itself, the record reflects that the plan establishes detailed procedures for identifying and mitigating potential OCIs.<sup>2</sup> AR, Tab 40, Final MSI OCI Mitigation Plan, at 1-22. Additionally, the plan includes detailed assessments of the potential OCI risk associated with the tasks in the SOW. AR,

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<sup>2</sup> The plan is a 39-page, single-spaced document. AR, Tab 40, Final MSI OCI Mitigation Plan.

Tab 40, Final MSI OCI Mitigation Plan, at 15-21. Where a potential OCI is identified under an SOW task, the type (or types) of OCI is explained, and OCI mitigation measures are specified. Id. Regarding potential impaired objectivity OCIs, the plan provides as follows:

[DELETED].

Id. at 13. In other words, this type of OCI was to be addressed through the use of firewalled subcontractors, approved by USAID.

Regarding potential unequal access to information OCIs, the plan provides that MSI will “[DELETED].” AR, Tab 40, Final MSI OCI Mitigation Plan, at 13. The plan further provides that [DELETED].” Id. at 9. Thus, this type of OCI was to be addressed through the use of a firewall and nondisclosure agreements.

Social Impact first claims that the plan “falls short” because it allegedly “does not assign responsibility for identifying an OCI.” Comments at 4-5; Supp. Comments at 8. In support of this claim, Social Impact points to a provision within the plan stating that MSI’s [DELETED]. Comments at 4 (quoting AR, Tab 40, Final MSI OCI Mitigation Plan, at 11). Social Impact argues that assigning this responsibility to the “entire office” is overbroad and that the contracting officer’s acceptance of the plan therefore was unreasonable. Supp. Comments at 8.

The contracting officer responds by identifying the project office personnel referenced in the plan as the “personnel performing the functional contract management of the Indonesia [Monitoring and Evaluation] Support contract.” Contracting Officer’s Supp. Statement at 2. The contracting officer states that assigning responsibility to this group of personnel is appropriate because they “are ideally suited to have the knowledge of the situational context [and] to review [SOW] and other taskers from USAID for possible OCIs.” Id. at 3.

The contracting officer then points out other provisions in the OCI plan that identify other specific positions as being responsible for assessing potential OCIs. The first of these provisions states that the OCI analysis includes

[DELETED].

AR, Tab 40, Final MSI OCI Mitigation Plan, at 11. Another provision states that “[DELETED]<sup>[3]</sup>” Id. Finally, the plan includes a provision that

[DELETED].

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<sup>3</sup> The solicitation named the chief of party as a key personnel position. RFP at 19.

AR, Tab 40, Final MSI OCI Mitigation Plan, at 9. Based on the foregoing, the contracting officer maintains that the plan adequately addresses the issue of who within MSI is responsible for identifying potential OCIs. Contracting Officer's Supp. Statement at 2-3.

On the record here, we see no basis to question the contracting officer's judgment. MSI's OCI plan sets forth specific procedures for identifying potential OCIs, and it charges MSI's Indonesia program office with implementing and adhering to those procedures. See AR, Tab 40, Final MSI OCI Mitigation Plan, at 7-14. Additionally, the plan [DELETED], a key component of the OCI review process. Id. at 10. The plan also identifies a number of specific positions to which potential OCI issues must be reported. Id. at 9, 11. We find that these aspects of the plan, together with its overall level of detail, support the contracting officer's position that the plan adequately addresses who within MSI is responsible for identifying potential OCIs.<sup>4</sup>

Next, Social Impact alleges that the plan improperly relies on MSI's "self-assessment of whether an OCI exists." Supp. Comments at 8. We see no merit in this claim for at least two reasons. First, the record reflects that the agency itself already has assessed the potential for OCIs under the contract. See AR, Tab 51, OCI Mem. Second, the plan establishes that the agency will be involved with assessing potential future OCIs when new requirements are assigned to MSI. Specifically, the plan states:

[DELETED]<sup>[5]</sup>.

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<sup>4</sup> In conjunction with the arguments discussed above on this issue, Social Impact asserts that the agency itself "does not know who is responsible for OCI identification." Comments at 4-5; Supp. Comments at 8. Social Impact bases this assertion on question marks in an e-mail sent by a USAID acquisition specialist to MSI that states, in relevant part: "[T]he Contracting Officer (OCI Board? COR?) will determine whether . . . MSI recusal is necessary." AR, Tab 63, USAID/MSI E-Mail Correspondence, at 3. The record shows that the e-mail was sent to provide "background" before a USAID/MSI teleconference regarding revisions to the OCI plan; i.e., the e-mail was sent while the OCI plan was still under development. Id. The record further shows that after the teleconference, MSI submitted revisions to the OCI plan, which the agency found to have "reasonably addressed . . . the Agency's concerns." AR, Tab 51, OCI Mem., at 6. Thus, when viewed in the appropriate context, the e-mail does not support Social Impact's allegation.

<sup>5</sup> As shown above, the plan provides that evaluations of projects implemented by MSI or Tetra Tech will be assigned to a firewalled subcontractor. AR, Tab 40, Final MSI OCI Mitigation Plan, at 13.

AR, Tab 40, Final MSI OCI Mitigation Plan, at 20. Thus, contrary to Social Impact's claim, the record shows that the agency has not and will not rely only on MSI's assessment of whether OCIs exist.

Social Impact further challenges the adequacy of the OCI plan on the basis that it does not mitigate the impaired objectivity type of OCI. In this regard, Social Impact points out that to mitigate this type of OCI, the plan relies on the use of firewalled subcontractors. Comments at 5-7; Supp. Comments at 9-11. Social Impact then argues that the plan is insufficient because, according to Social Impact, the subcontractors will not objectively evaluate programs implemented by MSI or Tetra Tech due to a desire to be selected for future subcontract work from MSI. Comments at 5-6; Supp. Comments at 10.

In response, the contracting officer first describes how only a small amount of work--less than eight percent of the contract budget--can give rise to an impaired objectivity OCI on the part of MSI.<sup>6</sup> Contracting Officer's Statement at 9. She then describes how the solicitation established a preference for the use of local subcontractors, and points out that MSI's OCI plan--[DELETED]--advances this preference.<sup>7</sup> *Id.* at 13-14 (citing RFP at 21; AR, Tab 32, MSI Revised Technical Proposal, at 11, 13, 20).

Turning to Social Impact's claim that the subcontractors will not evaluate programs objectively in the hope that MSI will retain them for future work, the contracting officer states that she surveyed more than two dozen potential subcontractors--

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<sup>6</sup> The contract officer provided detailed information to support this estimate. Contracting Officer's Statement at 9. Social Impact has not challenged the estimate.

<sup>7</sup> The preference for the use of local subcontractors was established in the following solicitation provision:

**Use of local experts and sub-contractors:** Rather than have full time permanent staff conducting all of the work the Contractor must hire Short Term Technical Advisors . . . and sub-contract other firms, research institutions, or individuals. In selection of Short Term Technical Advisors and sub-contractors[,] the Contractor must utilize, to the maximum extent possible, the expertise and capabilities of local individuals and local organizations. . . . The use of local firms and experts will increase the quality of analysis by bringing a more nuanced and authentic perspective to development problems, decrease the cost of the work by eliminating costly foreign travel, and contribute to national capacity development and sustainability.

RFP at 21.



[DELETED]--and found no indication that the firms would not exercise independent judgment in their evaluations. Contracting Officer's Statement at 14-17. The contracting officer provided documentation of her survey, including lists of the subcontractors' prior work product and references. Contracting Officer's Supp. Statement at 4-26. The contracting officer also described how she discussed the recent evaluation work of local subcontractors with her technical office and learned of no quality concerns with the evaluations. Contracting Officer's Statement at 18. Finally, the contracting officer states that in the last five years, neither the USAID inspector general's office, nor the cognizant regional inspector general's office, has reported any collusion among Indonesian firms in connection with USAID programs. Id. at 17.

In light of all this, the contracting officer concludes as follows:

Given the professionalism of the numerous local entities available to serve as subcontractors, I doubt any potential subcontractor would be willing to risk its corporate professional reputation . . . to please MSI in hopes of gaining further work from MSI. While providing [biased] evaluations . . . might be viewed as a way of currying favor for future work with MSI, such an approach risks exposure during [peer] reviews of the published evaluation with the accompanying damage to such a subcontractor's reputation . . . .

Contracting Officer's Supp. Statement at 4. In other words, the contracting officer views a subcontractor's interest in maintaining a good reputation to promote future work within the wider business community as an adequate check against the possibility that a subcontractor will skew evaluation reports--and likely tarnish its reputation--in the hope that a single client--MSI--would retain it for future work.

Our Office has determined in a number of protests that the use of firewalled subcontractors can adequately mitigate impaired objectivity OCIs. See Bus. Consulting Assocs., LLC, B-299758.2, Aug. 1, 2007 CPD ¶ 134 at 9-10; Alion Sci. & Tech. Corp., B-297022.4, B-297022.5, Sept. 26, 2006, 2006 CPD ¶ 146 at 10-11; Deutsche Bank, B-289111, Dec. 12, 2001, 2001 CPD ¶ 210 at 4; Epoch Eng'g, Inc., B-276634, July 7, 1997, 97-2 CPD ¶ 72 at 5-7. The OCI mitigation arrangements in those protests do not materially differ from the arrangement here. Further, and as discussed above, the record reflects that the contracting officer considered how the OCI plan established procedures to identify when an impaired objectivity OCI might arise through the evaluation work, and how the plan ensured that the conflicted firm--MSI--would not perform evaluations in those instances. See AR, Tab 51, OCI

Mem. Under these circumstances, we see no basis to question the agency's determination regarding the mitigation of potential impaired objectivity OCIs.<sup>8</sup> As a final challenge against the OCI plan, Social Impact alleges that it does not adequately mitigate potential unequal access to information OCIs. Comments at 8-9; Supp. Comments at 11-12. As discussed above, the plan addresses this type of OCI through the use of firewalls and nondisclosure agreements. AR, Tab 40, Final MSI OCI Mitigation Plan, at 9, 13. Social Impact argues that the plan "lacks the specificity and scope necessary to effectively mitigate" this type of OCI. Comments at 8. As its primary example of this issue, Social Impact claims that the plan "presumes documents with competitively useful information will come marked as OCI sensitive." Id. In reality, Social Impact contends, such information is unlikely to be marked. Id. As another example, Social Impact claims that the plan does not establish a procedure for reviewing and marking incoming information as sensitive, which may lead to competitively useful information being routed to MSI employees outside the firewall or not subject to nondisclosure agreements. Id.

In response, the contracting officer states that the OCI plan requires MSI's [DELETED] to review documents for OCI issues regardless of whether they are marked as sensitive or proprietary. Contracting Officer's Supp. Statement at 32. Various features of the plan support this statement. First, the plan establishes [DELETED]. See AR, Tab 40, Final MSI OCI Mitigation Plan, at 11. Second, the plan establishes [DELETED]. Id. at 11-13. Finally, the plan [DELETED]. Id. at 6.

As a further response to Social Impact's claim, the contracting officer describes how she reviewed the plan at length, and was satisfied that the "specific measures" within it would adequately neutralize or mitigate potential unequal access to information OCIs. Contracting Officer's Statement at 19-23; Contracting Officer's Supp. Statement at 33. She notes also that the plan includes provisions through which the agency can review and test MSI's OCI mitigation system once it is in place. Contracting Officer's Supp. Statement at 33 (citing AR, Tab 40, Final MSI OCI Mitigation Plan, at 8, 10-11).

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<sup>8</sup> Citing our decisions in C2C Solutions, Inc., B-401106.5, Jan. 25, 2010, 2010 CPD ¶ 38, and Nortel Government Solutions, Inc., B-299522.5, B-299522.6, Dec. 30, 2008, 2009 CPD ¶ 10, Social Impact claims that "using firewalled subcontractors is insufficient to mitigate an impaired objectivity OCI." Comments at 5-6; Supp. Comments at 9, 11. The circumstances in those protests are distinguishable from those here. In C2C Solutions, the use of firewalled subcontractors did not prevent the awardee from evaluating its parent company, a situation that is avoided under the arrangement here. See C2C Solutions, supra, at 8. In Nortel Government Solutions, the awardee did not propose to use firewalled subcontractors, but instead proposed to use an intra-organizational firewall. See Nortel Government Solutions, supra, at 2, 5, 7.

On this record, we see no basis to sustain Social Impact's claim. The record reflects that the OCI plan establishes specific processes for identifying and containing information that could provide MSI with a competitive advantage in future procurements. See AR, Tab 40, Final MSI OCI Mitigation Plan, at 8-13. The record further reflects that the contracting officer considered these procedures and determined that they "reasonably addressed the potential for OCI[s]." See AR, Tab 51, OCI Mem., at 6. Although Social Impact disagrees with that determination, it has not persuasively identified any material basis for concluding that the determination was unreasonable. To conclude, Social Impact's claims regarding the agency's treatment of potential OCIs in this procurement are denied.

### Cost Realism

Social Impact challenges the agency's cost realism analysis on various bases. We have considered all of the firm's arguments, and we find, based on the record, that none has merit. Below we discuss the firm's principal allegations.

Social Impact challenges the agency's evaluation of MSI's proposed daily rate for a key personnel position known as the Collaboration, Learning and Adapting/Training Advisor (CLA Advisor). Social Impact argues that MSI's proposed rate for this position was unrealistically low for two reasons. First, MSI's proposed base year daily rate for this position was \$[DELETED], but the daily rate in the independent government cost estimate (IGCE) was \$406--more than [DELETED] MSI's proposed rate. See Comments at 10. Second, after award, MSI informed the agency that it intended to increase the CLA Advisor's salary above the proposed amount, although MSI also stated that the agency would not be charged for the increase--i.e., MSI would "cap" the CLA Advisor's salary at the initially-proposed amount. See Comments at 9-10; Supp. Comments at 5-6. Social Impact argues that these circumstances show the agency's realism analysis was flawed. Comments at 11.

In response, the contracting officer first addresses the difference between the high CLA Advisor daily rate in the IGCE and the [DELETED] lower rate proposed by MSI. She explains that the IGCE was prepared under the assumption that the CLA Advisor position would be filled by a United States citizen. Contracting Officer's Supp. Statement at 35. [DELETED] Id. at 36 (citing AR, Tab 8, MSI Cost Proposal, at 67). The daily rate for a local national is much lower, the contracting officer states, because it is based on a different salary and because it does not include various allowances applicable to a United States citizen, such as a living quarter allowance, a post differential, and a post allowance. Id. at 35 (citing AR, Tab 69a, Revised IGCE, at 5).

The contracting officer further explains that the cost analyst evaluated the realism of MSI's proposed CLA Advisor rate by reviewing the proposed candidate's salary history. Contracting Officer's Supp. Statement at 36. This review showed that MSI

proposed [DELETED] increase--[DELETED]--over what the individual currently was earning [DELETED]. Contracting Officer's Supp. Statement at 36 (citing AR, Tab 8, MSI Cost Proposal, at 67). The cost analyst also found that the proposed rate was "within the US Embassy's Local Compensation Plan and current market rate." AR, Tab 35, Cost Analysis Mem., at 24. Based on all this, the cost analyst found the proposed rate to be realistic. Id.

With regard to MSI's post-award increase to the individual's salary (proposed at no cost to the government),<sup>9</sup> the contracting officer notes that under the solicitation, the agency's written consent is required before the successful offeror may place any key personnel. Contracting Officer's Supp. Statement at 37 (referencing RFP at 19). She suggests that through this approval process, MSI's proposed salary cap can be incorporated into the contract. See id. She also describes her analysis of why MSI's payment of this additional cost will not materially affect the firm's financial capability. Id. Finally, she states that the increased salary does not undermine the agency's cost realism evaluation because, as discussed above, the evaluation was based on an analysis of the salary history of MSI's key personnel as well as the agency's own data. See id. at 36-37.

When an agency evaluates a proposal for the award of a cost-reimbursement contract, such as here, an offeror's proposed costs are not dispositive because, regardless of the costs proposed, the government is bound to pay the contractor its actual and allowable costs. Bart & Assocs., Inc., B-407996.5 et al., Jan. 5, 2015, 2015 CPD ¶ 61 at 12; Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 8. Thus, the agency must perform a cost realism analysis to determine the extent to which the proposed costs are realistic for the work to be performed. See FAR § 15.404-1(d)(2). An agency's cost realism analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the proposed costs are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation. See Bart & Assocs., Inc., supra; Wyle Labs., Inc., supra. We review an agency's judgment in this area to see that the agency's cost realism evaluation was reasonably based and not arbitrary. See Bart & Assocs., Inc., supra; Wyle Labs., Inc., supra. Here, we see no basis to question the agency's cost realism evaluation.

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<sup>9</sup> MSI states that when the CLA Advisor candidate was contacted following the award, the candidate stated that she was working for an "interim employer" at a salary that was higher than what she was earning when MSI submitted its proposal. See AR, Tab 67, Decl. of MSI Vice President, ¶ 8. She then requested that MSI match the higher salary. Id. MSI agreed to absorb the additional cost rather than charge it to the agency. See id. ¶ 10.

As discussed above, although MSI's proposed rate for the CLA Advisor was significantly below the rate in the IGCE, the difference in the two rates was attributable to the IGCE's use of a United States citizen's rate (which is relatively high, for market-based reasons) and [DELETED]. See Contracting Officer's Supp. Statement at 35-36. As for MSI's post-award proposal to increase the CLA Advisor's salary, the record reflects that MSI initially proposed a rate that included [DELETED] increase--[DELETED]--over the salary that the individual was earning at the time of proposal submission. See id. at 36. The record further reflects that the agency considered the CLA Advisor's salary history and determined the proposed rate to be realistic because it was "within the US Embassy's Local Compensation Plan and current market rate." AR, Tab 35, Cost Analysis Mem., at 24. Thus, the record shows that the agency considered the cost information that was reasonably available at the time of its evaluation. Under these circumstances, we find the agency's cost realism analysis unobjectionable, notwithstanding the subsequent salary increase. Social Impact's claims regarding the agency's cost realism evaluation are denied.

#### Other Issues

Social Impact raises a number of other allegations as to why the firm believes the award to MSI was improper. Some of the allegations were abandoned after the agency responded to them in its initial and supplemental agency reports. As for the remaining allegations, we conclude, based on the record, that none furnishes a basis on which to sustain the protest. Below we discuss one example.

Social Impact claims that the agency failed to conduct equal and meaningful discussions with the firm. Comments at 11-13; Supp. Comments at 2-5. Before addressing Social Impact's claim, we observe that competitive prejudice is an essential element of every 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, even if deficiencies in the procurement are found. See HP Enter. Servs., LLC, B-411205, B-411205.2, June 16, 2015, 2015 CPD ¶ 202 at 6. Even assuming for the sake of argument that Social Impact's claims regarding discussions have merit (and it is not clear that they do), we conclude, for the reasons that follow, that there is no reasonable possibility that the firm was prejudiced by the agency's actions.

As shown in the background section of this decision, Social Impact's and MSI's proposals were evaluated as essentially equal under the technical factors, but MSI's probable cost was evaluated as approximately \$2.6 million lower than Social Impact's probable cost. AR, Tab 41, SSDD, at 7-8, 20. Social Impact's discussions claims relate to two discrete types of costs--transportation/travel costs and registration/legal costs. Comments at 11-13; Supp. Comments at 2-5. The record reflects that Social Impact's travel/transportation probable cost was approximately

\$(DELETED). AR, Tab 35, Cost Analysis Mem., at 18. The record further reflects that Social Impact's proposed registration/legal cost was \$(DELETED), a "very minor part of the contract" in Social Impact's own words. Comments at 13; AR, Tab 26, Social Impact Cost Proposal, at 21. Given that the sum of these two costs is less than the approximate \$2.6 million difference in Social Impact's and MSI's probable costs, and given that Social Impact could not have eliminated these costs in their entirety, we find that there is no basis to conclude that Social Impact would have had a substantial chance of receiving award even if discussions had been conducted in the way the firm argues they should have been.

The protest is denied.

Susan A. Poling  
General Counsel