



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

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Matter of: Ryan Associates, Inc.

File: B-274194; B-274194.2; B-274194.3

Date: November 26, 1996

Jessica C. Abrahams, Esq., David F. Dowd, Esq., and Marcia G. Madsen, Esq., Miller & Chevalier, for the protester.
David R. Johnson, Esq., Kathleen C. Little, Esq., and Robert J. Rothwell, Esq., McDermott, Will & Emery, for System Planning Corporation, an intervenor.
Gerald Q. Brown, Esq., Ballistic Missile Defense Organization, for the agency.
Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Technical evaluation of offerors' proposals is unobjectionable where the agency followed evaluation criteria stated in solicitation, the challenged evaluation findings all have a reasonable basis, and there is no evidence of unequal treatment of offerors.
2. Agency satisfied obligation to conduct meaningful discussions where it reasonably led protester into areas of its proposal requiring clarification or correction. Agency is not required to reopen negotiations to discuss matters first identified in an offeror's best and final offer.
3. Protest alleging "bait and switch" of proposed key personnel is denied where solicitation does not prohibit substitution of key personnel, and the substitution at issue consists of only two of more than [deleted] key personnel proposed by the awardee, both of whom left the awardee's employ after having performed a significant portion of their proposed level of effort.
4. Under a level-of-effort solicitation which sets the labor hours and labor categories, agency's cost realism analysis of proposals and determination of most probable cost is reasonable where it includes: identification of cost issues by the agency; review of audits by Defense Contract Audit Agency; and adjustments to costs based upon negotiated overhead rate ceilings.

5. In best value procurement, where solicitation provides that non-cost factors are of greater importance, record supports cost/technical tradeoff which focuses on technical distinctions between competing proposals and reasonably determines that higher technically rated proposal represents best value despite higher cost.

DECISION

Ryan Associates, Inc., protests the award of a contract to System Planning Corporation (SPC) under request for proposals (RFP) No. HQ0006-96-R-0005, issued by the Department of Defense, Ballistic Missile Defense Organization (BMDO) as a total small business set-aside. In its protests Ryan challenges various aspects of the technical and cost evaluations and the award determination.¹

We deny the protest.

The BMDO's mission to develop a robust ballistic missile defense (BMD) includes knowing what countermeasures are currently deployed on ballistic missiles and how these countermeasures could be deployed in the future. This solicitation was for independent, expert, scientific assessments, and technical evaluations concerning the development of BMD countermeasures by potential adversaries of the United States and its allies. These assessments and evaluations were to include technical analysis, modeling and simulations, engineering and design studies, budgetary and cost analysis, and reporting of results. The successful contractor is expected to participate in countermeasures integration program reviews and meetings, as well as information exchanges with other BMD elements.² The RFP contemplated award of an indefinite delivery/indefinite quantity, level-of-effort contract, on a cost-plus-fixed-fee, task order basis, for a base year with two 1-year options. Award was to be made to the offeror whose proposal was judged, by an integrated assessment of the cost and other listed evaluation factors, to be the most advantageous to the government.

Technical proposals were to be evaluated on the basis of six criteria, in descending order of importance: personnel, understanding and approach, past performance,

¹The protester submitted numerous arguments in support of these and other protest grounds; the agency responded to each argument, explaining and justifying its actions. We have reviewed the entire record, considered all of the protester's arguments, and find no basis for sustaining the protest. However, we will discuss only the more significant arguments in this decision.

²This would include interfacing with the Theater High Altitude Area Defense, PATRIOT, AEGIS/SM-2, Block IVA, Theater Missile Defense, National Missile Defense, BMD Advanced Technology Program project offices, various offices internal to BMDO, and the intelligence community, to convey the results of research and studies.

experience, management, and facilities. Proposals were scored on a color/adjectival basis: "Blue/Exceptional," "Green/Acceptable," "Yellow/Marginal," and "Red/Unacceptable." Proposals also were evaluated on a risk assessment basis: "High," "Moderate," and "Low" based upon the potential for disruption of schedule, increase in cost, or degradation in performance, along with an assessment of the amount of contractor special effort and government monitoring needed.

Cost was to be evaluated, but not scored, on the basis of whether proposed costs were realistic, complete, and reasonable in relation to the RFP requirements. Costs had to be compatible with the technical proposal and no advantage was to accrue to offerors submitting unrealistically low cost proposals. Adjustments could be made to proposals to obtain a most probable cost (MPC) using the results of the cost realism evaluation. While evaluated probable cost was a substantial area of consideration, non-cost factors collectively were of greater importance.

Ryan and SPC were the only two offerors to submit proposals by the April 15, 1996, closing date. The source selection evaluation team (SSET) evaluated the technical proposals and the oral presentations, conducted written discussions, obtained written responses, and evaluated the offerors' best and final offers (BAFO), resulting in the following final ratings:

Offeror	Personnel	Understand /Approach	Past Perform	Exper'nce	Managm't	Facility
SPC	Blu/Low	Blu/Low	Blu/Low	Grn/Low	Grn/Low	Grn/Low
Ryan	Grn/Low	Grn/Mod	Blu/Low	Grn/Mod	Grn/Mod	Grn/Low

The cost team, headed by the contracting officer reviewed the offerors' cost proposals for realism, completeness, and reasonableness and conducted written discussions based on the evaluations. Due to questions concerning both offerors' proposed overhead, the agency negotiated a ceiling with both offerors. [deleted] Both cost proposals were adjusted upward to reflect the negotiated ceilings, resulting in an MPC of \$9.175 million for SPC and an MPC of \$7.757 million for Ryan.

The SSET prepared a briefing for the source selection authority (SSA) as well as a detailed cost/technical tradeoff discussion recommending award to SPC as offering the best value to the government. Because the tradeoff discussion attempted to quantify the value of SPC's proposal, emphasizing matters which were not included in the RFP's evaluation criteria, the contracting officer wrote a detailed critique of the tradeoff. In her critique, the contracting officer noted that SPC's proposal was technically superior to Ryan's but concluded that the SSET's tradeoff discussion had not sufficiently justified the conclusion that SPC's proposal was worth the cost premium associated with it. The contracting officer provided both the tradeoff and

the critique to the SSA, but advised him that there was no joint recommendation for award. Based upon his review of the evaluation record and briefing, the SSA concluded that SPC's proposal represented the best value to the government. His decision was based on his finding that SPC's proposal was superior to Ryan's in the areas of personnel and understanding and approach and in risk ratings for the areas of experience and management. Overall, the SSA determined that SPC's technically superior proposal was worth the [deleted] percent cost premium. The agency awarded the contract to SPC. After receiving notice of the award and a debriefing, Ryan filed this protest.

TECHNICAL EVALUATION

Ryan first challenges the technical evaluation of its and SPC's proposals. It is not the function of our Office to evaluate proposals de novo. Rather, we will examine an agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, since the relative merit of competing proposals is primarily a matter of administrative discretion. Information Sys. & Networks Corp., 69 Comp. Gen. 284 (1990), 90-1 CPD ¶ 203; Advanced Technology and Research Corp., B-257451.2, Dec. 9, 1994, 94-2 CPD ¶ 230. The protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. Medland Controls, Inc., B-255204; B-255204.3, Feb. 17, 1994, 94-1 CPD ¶ 260. Our review of the record provides no basis for objecting to the agency's evaluation.

Ryan contends that the technical evaluations of its proposal and SPC's were flawed in several of the areas reviewed.³ For example, under the personnel factor, Ryan argues that the agency improperly cited the lack of desired experience as a

³In another argument, Ryan alleges that the agency improperly used undisclosed evaluation criteria: credibility, learning curve, and transition concerns. For example, with regard to credibility, the evaluators observed that SPC's senior level team had great credibility in the BMD community and treated this as one of seven strengths under the personnel factor and one of nine strengths under the understanding and approach factor. We do not believe that this constituted the application of undisclosed evaluation factors. Rather, it simply concerned the qualifications of the proposed senior level team and its ability to perform the contract, matters reasonably encompassed by the respective evaluation factors. See Avogadro Energy Sys., B-244106, Sept. 9, 1991, 91-2 CPD ¶ 229. Ryan's position regarding the significance of this matter stems from its consideration in the SSET's cost/technical tradeoff. However, this document played no significant role in the award determination (see cost/technical tradeoff discussion below). In this regard, the SSA's selection decision does not mention credibility, learning curve, or transition concerns, and we find nothing to indicate that they had any effect on the award decision.

weakness for one of its personnel, while failing to cite the same weakness for one of SPC's personnel. The RFP sought personnel with certain specialized experience, defined as performance of a technical discipline directly related to that required for statement of work (SOW) performance. The solicitation envisioned that both the program manager and principal analyst would have 10 years of specialized experience. One of Ryan's proposed principal analysts was listed as having only 8 years of specialized experience. Clarification was sought during discussions and, in response, Ryan confirmed that the analyst had only 8 years of specialized experience. Accordingly, the agency properly treated the matter as a weakness. With regard to SPC's proposal, one of the evaluators questioned the specialized experience of SPC's proposed program manager and clarification was sought in discussions. Unlike Ryan's response, SPC's response provided three pages of information that substantiated its program manager's more than 10 years of specialized experience. Thus, the agency properly did not identify this matter as a weakness in SPC's proposal.

Similarly, under the understanding and approach factor, Ryan argues that the agency improperly downgraded its proposal of work beyond the scope of the solicitation, while not downgrading SPC's similar proposal of beyond-the-scope work. Again, the difference in treatment is attributable to the fact that what Ryan proposed reasonably constituted a weakness, while what SPC proposed did not. In this regard, SPC proposed to perform additional [deleted] comparable to activities included in previous BMDO contracts, but which were not included in this solicitation's SOW. The agency treated this neither as a strength nor a weakness. Ryan, on the other hand, proposed to do more than the normal interfacing with other government offices. For example, since Ryan and its team members conducted work for other ballistic missile defense related offices, the protester proposed to use these relationships to have the results of its work under this solicitation "seriously considered." While Ryan believed that use of its contacts would be beneficial to the agency, BMDO viewed such contacts as presenting the potential for improper influence. BMDO sought clarification during discussions and Ryan reiterated its intention to use its contacts as proposed. Because of the potential for lack of impartiality in the technical studies performed under this contract, BMDO treated the matter as a weakness in Ryan's understanding and approach. While the protester disagrees with the agency's assessment, it has provided nothing to establish that this evaluation was unreasonable or objectionable.

Ryan also challenges BMDO's evaluation of SPC's past performance based on the agency's failure to evaluate SPC's performance under its incumbent contract, which Ryan argues was SPC's most relevant contract. Ryan alleges that SPC was issued a stop work order due to SPC-generated cost overruns on that contract. Since the evaluators apparently considered positive aspects of SPC's performance on that contract elsewhere in the evaluation, Ryan argues that they were required to consider the allegedly negative cost overrun information as well. In Ryan's view,

had BMDO considered this negative information, it would not have rated SPC's proposal as "blue" with "low" risk under the past performance factor. BMDO advises, and has submitted documents which support its position, that the stop work order was issued because of a funding shortfall for which the government was responsible, and not due to any SPC-generated cost overruns. Thus, to the extent the evaluators may have considered SPC's past performance on that contract, their failure to consider non-existent negative information was unobjectionable.

In a related argument, Ryan contends that the agency improperly provided guidance to SPC's team without providing comparable guidance to Ryan's team. In this regard, Ryan notes that the agency specifically advised SPC's primary subcontractor, SAIC, that it could tailor its submissions on past performance to reflect the 10 most relevant of its recent contracts. The reason for allowing the tailoring was that SAIC, a large business, had numerous recent contracts, many involving company divisions unrelated to that which would perform the contract. Ryan contends that this was inconsistent with the RFP requirement for information on the 10 most recent contracts and that it was "severely prejudiced" by this apparent waiver of the restriction on past performance contract submissions. Ryan, however, has not shown that had the agency dealt with it similarly, its primary subcontractor would have done something different that would have put Ryan in line for award. On the contrary, the record establishes that even without the agency's advice, Ryan's primary subcontractor also submitted its 10 most relevant recent contracts. Further, Ryan and its subcontractors' past performance was rated as "blue" with "low" risk, the highest possible rating. Accordingly, we are not persuaded that had Ryan received guidance on this matter it would have submitted any different proposal or been evaluated in a way that would have increased its chance for award. Thus, it was not prejudiced by the agency's actions.

MEANINGFUL DISCUSSIONS

Agencies are required to conduct meaningful discussions with all competitive range offerors. Stone & Webster Eng'g Corp., B-255286.2, Apr. 12, 1994, 94-1 CPD ¶ 306. In order for discussions to be meaningful, contracting officials must advise offerors of deficiencies in their proposals and afford offerors an opportunity to revise their proposals to satisfy the government's requirements. Id. This does not mean that offerors are entitled to all-encompassing discussions. Agencies are only required to lead offerors into areas of their proposals that require amplification. Caldwell Consulting Assocs., B-242767; B-242767.2, June 5, 1991, 91-1 CPD ¶ 530. The degree of specificity required in conducting discussions is not constant and is primarily a matter for the procuring agency to determine. JCI Envtl. Servs., B-250752.3, Apr. 7, 1993, 93-1 CPD ¶ 299.

Ryan alleges that the agency improperly failed to advise it of a number of issues in discussions. For the majority of the issues, the agency report clearly establishes that the agency in fact discussed these issues and the protester's revised proposal

addressed them. For example, Ryan originally argued that the agency had not discussed its principal analyst's lack of desired experience. As discussed above, the matter was raised during discussions; Ryan's response simply failed to satisfy the evaluators. The fact that the protester's responses did not fully satisfy the evaluators does not mean that the discussions were inadequate. Reflectone Training Sys., Inc.; Hernandez Eng'g, Inc., B-261224; B-261224.2, Aug. 30, 1995, 95-2 CPD ¶ 95. In its comments on the agency report, Ryan did not rebut the agency's explanation. Instead, it identified new areas in which its proposal was allegedly downgraded without the benefit of discussions.

For example, Ryan argues that the agency improperly downgraded its proposal for a lack of "credibility" and an unresolved organizational conflict of interest (OCI) matter without discussing the matters with them. While the consensus ratings of the evaluators listed SPC's credibility in the BMDO community as a strength, there is nothing to indicate that the agency downgraded Ryan's proposal for, or otherwise identified as a weakness, any perceived lack of "credibility." The only place the lack of credibility is discussed is in the SSET's tradeoff discussion which the contracting officer effectively rebutted and the SSA explains did not materially aid in his own cost/technical tradeoff. Since the issue of credibility did not enter into the evaluation or into the award decision, the agency had no responsibility to discuss the matter with the protester.

With regard to the OCI matter, the agency requested additional information from the protester in discussions regarding one of its subcontractor's work on other contracts with BMDO. In response, Ryan explained that it perceived no OCI problems, but to avoid the appearance of a problem, would recuse any affected subcontractor personnel. In reviewing this response, the agency found that such a recusal could have affected contract performance. This continuing concern was not the subject of discussions. However, since it was first introduced in Ryan's revised proposal, the agency was not required to reopen discussions to obtain Ryan's further input. See Potomac Research, Inc., B-250152.8; B-250152.11, July 22, 1993, 93-2 CPD ¶ 109.

On this record, we see no basis to conclude that the agency failed to afford meaningful discussions to Ryan.

BAIT AND SWITCH

Ryan contends that SPC engaged in a "bait and switch" of proposed personnel.⁴

⁴Ryan also contends that SPC misled the agency with regard to the availability of various personnel. Specifically, Ryan notes that three personnel who were proposed to work on the senior level team were also proposed as key personnel but
(continued...)

Specifically, Ryan identifies two key personnel who are no longer working on the contract and contends that SPC proposed them with the intention of replacing them after winning the contract. Ryan's contentions are baseless.

Offeror "bait and switch" practices, which result in an offeror's proposal being favorably evaluated on the basis of personnel that it does not expect to use during contract performance, have an adverse effect on the integrity of the competitive procurement system and provide a basis for rejection of that offeror's proposal. Meridian Management Corp., Inc.; NAA Servs. Corp., B-254797; B-254797.2, Jan. 21, 1994, 94-1 CPD ¶ 167; PRC, Inc., B-247036, Apr. 27, 1992, 92-1 CPD ¶ 396. This does not mean that substitution of employees after award is prohibited; such substitution is unobjectionable where the offeror acted reasonably and in good faith. Unisys Corp., B-242897, June 18, 1991, 91-1 CPD ¶ 577.

Here, there is no evidence that SPC engaged in bait and switch practices. Rather, the record shows that virtually all of the personnel, key and non-key, proposed by SPC and its team members are available and working on the contract. The SPC team proposed more than [deleted] key personnel and states that it intended to use them all in performance of the contract. SPC acknowledges that two personnel are no longer working on the contract, but explains that both were long-term SPC employees who left unexpectedly. One of them left to care for his ill parents, while the other left to accept another business opportunity. Both were proposed to work 500 hours on the contract and, prior to resigning, each worked a significant portion of that time: 124.5 and 255 hours, respectively. Nothing in the RFP prohibits substitution of personnel, and by itself, substitution after contract award, of two key personnel out of more than [deleted] proposed, provides no basis to conclude that award to SPC was improper. Whether any substituted personnel are qualified to fill the vacated positions is a matter of contract administration which our Office will not review. Bid Protest Regulations, § 21.5(a), 61 Fed. Reg. 39039, 39045 (1996) (to be codified at 4 C.F.R. § 21.5(a)).

⁴(...continued)

were obligated to work on the contract for very limited hours. Ryan has simply misconstrued SPC's proposal. Each of the personnel was proposed only for the senior level team. The reference to other positions simply complies with the RFP's requirement that personnel be categorized according to their education and experience. Thus, these personnel were not proposed to perform two jobs on the contract. Ryan also noted that although SPC's program manager was proposed to devote "100 percent" of his time to this contract in fact he was spending less time. This allegation also is without merit. The program manager was proposed to work for a specific number of hours per year and SPC intends for him to work the hours proposed. Whether he performs as proposed is a matter of contract administration which our Office will not review. Bid Protest Regulations, § 21.5(a), 61 Fed. Reg. 39039, 39045 (1996) (to be codified at 4 C.F.R. § 21.5(a)).

COST REALISM ANALYSIS

Ryan contends that the cost realism evaluation was flawed because the agency did not take into account various inconsistencies discovered in SPC's cost proposal and used only rudimentary calculations to make adjustments. When a cost-reimbursement contract is to be awarded, a cost realism analysis must first be performed by the agency. See Federal Acquisition Regulation §§ 15.801, 15.805-3. The purpose of a cost realism analysis by an agency under a level-of-effort, cost-type contract is to determine the extent to which the offeror's proposed labor rates are realistic and reasonable. ERC Envtl. and Energy Servs. Co., Inc., B-241549, Feb. 12, 1991, 91-1 CPD ¶ 155. In this regard, an agency is not required to conduct an in-depth cost analysis or to verify each and every item in conducting its cost realism analysis. Rather, the evaluation of competing cost proposals requires the exercise of informed judgment by the contracting agency involved, since it is in the best position to assess "realism" of cost and technical approaches and must bear the difficulties or additional expenses resulting from a defective cost analysis. Since the cost realism analysis is a judgment function on the part of the contracting agency, our review is limited to a determination of whether an agency's cost evaluation was reasonably based and not arbitrary. General Research Corp., 70 Comp. Gen. 279 (1991), 91-1 CPD ¶ 183; Science Applications Int'l Corp., B-238136.2, June 1, 1990, 90-1 CPD ¶ 517. We have reviewed BMDO's cost realism analysis of SPC's proposal and find it unobjectionable.

Here, the cost evaluators reviewed SPC's cost proposal for realism, completeness, and reasonableness. The evaluation included a comparison of the labor hours and mix proposed in the cost volume of the proposal to the labor effort in the technical volume; an assessment of the responsiveness of the cost proposal to the RFP's requirements; and an assessment of the degree to which proposed cost methodology supported the development of the proposed costs and total price. The evaluators found SPC's proposal to be reasonable and complete, and with regard to cost realism, that its proposal was consistent and compatible with the labor effort in its technical volume and that in the RFP. They also had the Defense Contract Audit Agency (DCAA) verify SPC's direct and indirect rates. In verifying SPC's rates, DCAA considered them for reasonableness, unallowable costs, and proper allocation bases. DCAA also compared SPC's proposed budget rates with actual rates from previous year's and the year to date. DCAA took no exceptions in its review. Since SPC proposed labor hours as set by the RFP, and used labor rate escalations similar to Ryan's and those recommended by DCAA, the evaluators determined that it was unnecessary to make adjustments in the out years. SPC's labor mix was determined sufficient to perform the SOW making adjustments to the labor mix unnecessary. Due to questions concerning SPC's overhead rates, the agency negotiated a [deleted] percent ceiling on labor overhead and adjusted the cost proposal to reflect the

negotiated ceiling.⁵ Since the level of effort is set by the agency and the agency obtained verification of SPC's direct labor rates from DCAA, and since the agency both negotiated an indirect rate ceiling and adjusted SPC's costs upward based on that ceiling, we have no basis to conclude that BMDO's cost realism analysis was unreasonable or otherwise flawed. Further, since SPC's most probable cost is approximately [deleted] percent higher than Ryan's, there appears little risk that SPC's proposal is unrealistically low.

Ryan, however, contends that this evaluation was insufficient because it failed to take into account four matters which the agency identified in its evaluation: proposed escalation rates, subcontractor costs, low other direct costs (ODC), and discrepancies in the percentage of direct productive labor hours (DPLH) per year. Ryan argues that had the agency made adjustments to SPC's costs to account for these matters, SPC's probable cost would have "greatly exceeded" the MPC originally calculated. Contrary to Ryan's allegations, the agency raised three of these matters in discussions and SPC satisfactorily responded to all three. For example, the discrepancies in DPLH percentages were primarily attributable to the fact that SPC's personnel matrix did not list all proposed personnel, while the cost proposal did. Correction of the personnel matrix to account for all personnel eliminated the discrepancies. Similarly, SPC provided explanations for missing subcontractor costs and its low ODCs which the agency reviewed and accepted as reasonable. Though Ryan claims that these matters should have resulted in significant cost adjustments, it makes no attempt to quantify them. We find that Ryan's objections merely constitute its disagreement with the agency's determination, which alone does not establish that the evaluation was unreasonable.

With regard to SPC's escalation rate, Ryan notes that DCAA had identified a data resource index rate of 3.5 percent for both Ryan and SPC; yet, SPC's rate was only [deleted] percent. The agency explains that this slight difference was determined to be too low to warrant any adjustment. In this regard, the agency explains that Ryan's escalation rate [deleted]. Since the agency would have had to upwardly adjust Ryan's rate as well as SPC's rate and the small increases would not have

⁵In fact, the agency made upward adjustments to both proposals. However, Ryan contends that the agency should not have adjusted its indirect costs upward to reflect the ceiling because its originally proposed rate was realistic and reasonable. The agency explains that it negotiated the ceiling on Ryan's indirect cost rate because of concerns with Ryan's lack of [deleted] and due to a lack of information concerning Ryan's [deleted]. Since the ceiling rate was negotiated with Ryan without objection and has a reasonable basis, the agency reasonably considered this ceiling in determining Ryan's MPC. In any event, even if this adjustment had not been made, the difference between Ryan's proposed costs and SPC's MPC would increase less than [deleted] percent, an amount unlikely to have affected the outcome of the cost/technical tradeoff.

been significantly dissimilar, we find unobjectionable the agency's determination to simply accept both offerors' proposed escalation rates.

COST/TECHNICAL TRADEOFF

Finally, Ryan contends that the flawed evaluations make the cost/technical tradeoff performed by the SSA unreasonable. Ryan also contends that the SSA failed to properly consider cost and to justify award to SPC at a price premium in his selection statement. We disagree.

In a negotiated procurement, the government is not required to make award to the lowest-cost, technically acceptable offeror unless the RFP specifies that cost will be the determinative factor for award. General Servs. Eng'g. Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44. Agency officials have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results. Cost/technical tradeoffs may be made; the extent to which one may be sacrificed for the other is governed by the test of rationality and consistency with the established evaluation factors. Id. While the selection official's judgment must be documented in sufficient detail to show it is not arbitrary, KMS Fusion, Inc., B-242529, May 8, 1991, 91-1 CPD ¶ 447, an SSA's failure to specifically discuss the cost/technical trade-off in the selection decision document does not affect the validity of the decision if the record shows that the agency, in consideration of the relative technical merit of the awardee's and the lower-cost protester's proposals, reasonably decided that the higher-cost awardee's proposal was worth the associated additional cost. McShade Gov't Contracting Servs., B-232977, Feb. 6, 1989, 89-1 CPD ¶ 118.

As discussed above, we find nothing objectionable in the agency's evaluation of SPC's or Ryan's proposals. We also find that the SSA's cost/technical tradeoff decision to award to SPC as the technically superior offeror, at an [deleted] percent higher evaluated cost, was rational and is supported by the record.

The RFP provided that award would be made to the offeror whose proposal was determined most advantageous, based upon an integrated assessment of cost and non-cost factors. The non-cost factors, personnel, understanding and approach, past performance, experience, management, and facilities, were considered more important than cost. The RFP permitted award to an offeror with a higher technically rated proposals at a higher evaluated cost, but also provided that award would not be made at a significantly higher overall cost to achieve only slightly superior capability.

The SSA is the director of Security, Intelligence and Countermeasures at BMDO and has more than 30 years of experience in the areas of intelligence, science, and technology. Before making his selection decision, he was briefed by the SSET, read all the top-level documents comprising the proposal analysis report (PAR), the

SSET's cost/technical tradeoff, and the contracting officer's critique of the tradeoff. According to the SSA, the tradeoff did not materially aid his understanding of the respective proposals and the critique reinforced his independently conceived view that he was simply being called upon to make the straightforward judgment of whether the superior quality of the SPC proposal was worth the associated additional cost.

The SSA's decision was based primarily on the PAR. The SSA noted the difference in technical and risk ratings for both offerors in four of the six non-cost factors. In personnel, the most important of the factors, he considered that SPC's "blue/low" ratings were justified, while Ryan's "green/low" ratings were "generous." He based this determination on the superior qualifications and experience of the SPC team against the more limited qualifications and experience of the Ryan team. In this regard, the PAR reflects seven strengths and no weaknesses for SPC and emphasizes its personnel's "exceptional" and "extensive" experience. For Ryan's proposal, the PAR reflects six strengths emphasizing its "superior" but more limited experience, and contains two weaknesses concerning the deputy program manager's less than desired level of experience and Ryan's limited experience in certain areas.

With regard to understanding and approach, the SSA was "disappointed" with Ryan's failure to grasp the full scope of the BMDO countermeasures program. Instead of the comprehensive threat risk assessment process emphasized in the program, the SSA found that Ryan's approach was a much more limited endeavor focusing only on characterizing given countermeasures and inserting them into specific threat products. The SSA noted that Ryan persisted in this approach even after discussions, but found SPC's proposal exhibited a reassuring grasp of both the strategic vision of the countermeasures program, as well as the specific steps required to carry it out. Thus, he concluded that SPC's "blue/low" ratings versus Ryan's "green/moderate" ratings were justified. Again, the PAR supports these findings. SPC's proposal contained nine strengths and no weaknesses, while Ryan's proposal contained only six strengths and three weaknesses, including confusion as to the role of the senior-level team and lack of full understanding of a risk assessment process.

In the areas of experience and management, both Ryan's and SPC's proposal were rated "green." While SPC's proposal was rated as "low" risk, the SSA noted that Ryan's proposal was rated as "moderate" risk. In this regard, the PAR reflects five strengths each for the offerors under the experience factor, as well as one weakness for Ryan. While SPC had performed many contracts larger and/or more complex than the SOW, Ryan had not been the prime on contracts of similar size and complexity. Under management, SPC's proposal had three strengths, including an [deleted]. Ryan's proposal had two strengths and two weaknesses including its planned, beyond the scope work, and the lack of clarity in its interface with related contract support areas.

With regard to cost, the SSA considered the [deleted] percent cost premium associated with SPC's proposal, and noted that the cost risk for both proposals was low and that both offerors had agreed to overhead rate ceilings. Overall, the SSA concluded that SPC's proposal was substantially superior to the Ryan proposal and that it was worth the added cost to obtain SPC's level of performance. In his view, a primary consideration was the criticality of the countermeasures program to the ultimate success of the BMD program, thus making the highest quality contractor support most important.

In sum, the record shows that the SSA reviewed the technical evaluations and carefully weighed the differences in the two proposals to determine whether selection of the higher-rated proposal would result in sufficient added value to justify the payment of an [deleted] percent cost premium. In our view, since non-cost factors were more important than cost, and SPC's proposal was plainly technically superior to Ryan's in four of six non-cost factors, including the two most important factors, the record supports the SSA's tradeoff determination. McShade Gov't Contracting Servs., supra. While the [deleted] percent most probable cost difference between the proposals is significant, we do not believe that alone is reason to question the SSA's determination. General Servs. Eng'g, Inc., supra (award to offeror whose technically superior proposal was 125 percent higher in cost than lower technically rated proposal was proper).

Our conclusion is not changed by the agency's admitted problems with the SSET's tradeoff methodology. While Ryan argues that the SSA's tradeoff was tainted by the SSET's tradeoff, the record does not support this argument. The SSET's tradeoff emphasized credibility, learning curve, and other discriminators which the contracting officer correctly criticized as not representing identified evaluation factors. The SSA was fully briefed on the matter by the contracting officer's memorandum and he avers that the SSET's tradeoff did not materially aid his understanding of the proposals. Since an SSA is not bound by the evaluation

findings of lower-level evaluators, where, as here, there is no evidence that an SSA has relied upon improper evaluations, we will not impute those evaluations to the SSA. See Aguirre Eng'rs, Inc., B-258931, Feb. 21, 1995, 95-1 CPD ¶ 104.⁶ Accordingly, the record provides no basis to question the SSA's cost/technical tradeoff and resulting award determination.

The protest is denied.

Comptroller General
of the United States

⁶Ryan also argues that the selection decision was tainted by the SSA's attempt to quantify the non-cost factor ratings in his draft selection statement. According to the SSA, after making his selection decision, he created a numerical analysis as a check, assigning relative weights to the color and risk ratings. These calculations reinforced his decision and he included the analysis in his draft decision. The SSA was advised that it would be inappropriate to include this analysis in his selection decision. Since the selection decision does not reference this analysis and is fully supported by the evaluation record, we are unpersuaded that the SSA's use, and subsequent rejection, of a numerical quantification makes his selection decision suspect.