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Decision

Matter of: The Louis Berger Group, Inc.

File: B-407715; B-407715.2; B-407715.3

Date: January 25, 2013

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DIGEST

Protest of an agency's evaluation and exclusion of the protester's proposal from the competitive range is denied, where the agency reasonably evaluated the proposal and found that it was not among the most highly rated offers.

DECISION

The Louis Berger Group, Inc., of Washington, D.C., protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. SOL-278-12-000001, issued by the United States Agency for International Development (USAID) for economic development services. Louis Berger challenges the agency's evaluation of its technical proposal.

We deny the protest.

BACKGROUND

The RFP provided for the award of a 5-year, cost-plus-fixed-fee contract for technical assistance supporting USAID's economic development program in the Hashemite Kingdom of Jordan (the Jordan Competitiveness Program). RFP at 1, 9, 18, 96.¹ The goals of this program are to foster a business-enabling environment

¹ The RFP was amended 6 times during the procurement. Our citations are to the conformed RFP.

that is supportive of business development, growth, investment, and innovation; improve Jordanian workforce skills; increase competitiveness of targeted “clusters” (business sectors); and increase financial access for Jordanian businesses and entrepreneurs. RFP at 14.

A statement of work (SOW) was provided that detailed required tasks that the contractor is to perform. See SOW at 19-36. Among other things, the contractor will target three particular business clusters (information and communications technology, health sciences/medical services, and clean technology), as well as one or two clusters selected by the contractor that have significant growth and employment potential.² Id. at 26. The contractor is required to develop strategies for improving the competitiveness of each cluster in collaboration with the Jordanian government,³ business leaders, academia, non-governmental organizations, and USAID. Id. at 19. The contractor is also required to establish a competitive partnership fund of at least \$5.5 million for grants and subcontracts that support program objectives, and ensure transparent, competitive procedures for issuing the grants and contracts.⁴ See id. at 20; RFP at 67. Moreover, the contractor is required to assist in drafting legislative, regulatory, and procedural reforms by the government of Jordan that support business development. See SOW at 19, 22. To support the development of workforce skills in targeted clusters, the contractor must also develop a number of programs, including establishing centers of excellence, career development centers, vocational training and internship programs, and

² The RFP provided a 2012 USAID-sponsored report that identifies 16 business clusters, provides recent statistics, and rates the clusters’ potential for increasing exports, job growth, creating jobs for women, and impacting water usage (a major concern in Jordan). See RFP, attach. 9, Jordan Economic Growth Assessment, at 34-53, 86-93. As relevant here, the agriculture and food processing cluster was reported as having moderate opportunities for increasing exports, job growth, and creating jobs for women, with the highest impact on water usage among all sectors. See id. at 86-93. The fertilizers and raw materials cluster was reported as having low opportunities for increasing exports, job growth, and creating jobs for women, and with a moderate impact on water usage. Id.

³ The contractor is required to work with various stakeholders, including nearly a dozen key Jordanian ministries. See SOW at 36. The SOW also requires the contractor to discuss with the Jordanian government the possibility of establishing a competitiveness/innovation council, and assist with building the capacity of the council to ensure its sustainability beyond the Jordan Competitiveness Program. Id. Since issuance of the RFP, Jordan has established a National Council for Competitiveness and Innovation. See Supp. Agency Report (AR) at 13; Contracting Officer’s (CO) Statement at 19.

⁴ The contractor is required to submit, within 90 days after project mobilization, a manual for implementing and managing grants under the contract. RFP at 43.

partnerships between Jordanian and foreign universities for course and curriculum development. See id. at 24-26.

The SOW identified four “cross-cutting [program] themes”--environmental considerations, gender, youth, and regional coverage. Id. at 32-33. For example, the contractor must make every effort to ensure that its programs do not exacerbate existing environmental challenges. Id. at 32. In this regard, offerors were informed that, under the Foreign Assistance Act, as amended, 22 U.S.C. § 2151p(c) and its implementing regulations and agency directives, the potential environmental impact of USAID activities must be identified prior to implementation, environmental sustainability must be a central consideration in designing and carrying out development programs, and appropriate safeguards must be adopted for all activities.⁵ See RFP at 65-66. The contractor must also ensure that women receive program assistance and must address challenges and opportunities for increasing female workforce participation, by, among other things, undertaking a gender analysis of activities to be performed in the targeted sectors. See SOW at 19, 33. The contractor is required to create at least 40,000 new jobs, ensuring that at least 25 to 50 percent of the jobs are for women and/or workers outside of the capital, Amman. Id. at 19. The contractor must also consider the needs of Jordan’s burgeoning youth population. Id. at 33. Moreover, the contractor is required to establish (in addition to an office in Amman) an office in Irbid Governorate and assess opportunities for establishing other regional offices. See id.

Offerors were informed that award would be made on a best value basis, considering price and the following non-price factors (with corresponding weights): technical approach (35 points); personnel (25 points); management approach (15 points); institutional capabilities (10 points); and past performance (15 points). RFP at 112-14. The non-price factors were significantly more important than the price factor. Id.

Detailed instructions were provided for the preparation of proposals under each of the factors. Id. at 99-105. With regard to the technical approach factor, offerors were required to describe their approach to achieving program objectives and accomplishing expected results, specifically addressing each task, program component,⁶ and cross-cutting issue. Id. at 102. Offerors were instructed to

⁵ The RFP advised offerors that the contractor would be required to comply with host country environmental regulations, unless otherwise directed by USAID. See RFP at 66. The contractor must also submit quarterly and annual environmental status reports based on an approved Initial Environmental Examination and Environmental Mitigation and Monitoring Plan. See id. at 43.

⁶ The SOW identified a number of program components, such as creating a supportive enabling environment (Component I), a world-class workforce

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describe their implementation plan, strategies for delivering technical assistance, and proposed coordination among various government and private sector entities, as well as the offeror's critical assumptions and the constraints in carrying program components. See id. Moreover, offerors were required, among other things, to address their strategy and approach for increasing women's participation in the Jordanian economy, promoting youth employment, and generating economic parity among the provinces. See id. The RFP provided that the agency would evaluate the quality of the offeror's overall technical approach to the tasks, program components, and cross-cutting issues, as well as the extent to which the proposal clearly demonstrated a comprehensive understanding of the Jordanian political, social, and economic environment, and a sound approach to overcoming barriers and constraints. See id. at 113.

With regard to the key personnel factor, offerors were required to propose five key personnel: a chief of party, deputy chief of party, and component leaders for program components I, II, and IV. See id. at 103-104; see also SOW at 47. The RFP identified required levels of experience and education for each position.⁷ See id. The offeror was also instructed to propose a team of U.S. expatriates and local staff, and a mix of short-term technical advisors. See RFP at 102-104. The RFP required offerors to provide a staffing plan, organizational chart, and level-of-effort chart for all long and short-term professional staff. See id. Offerors were informed that the agency would evaluate the quality and experience of proposed personnel; whether the composition, number, and skill mix is appropriate for achieving the SOW's results; and the feasibility and quality of the offeror's plan to transfer responsibilities from expatriate to Jordanian staff over time. Id. at 113.

With regard to the management approach factor, offerors were required to describe their management approach, including a clear rationale for their proposed program management and organizational structure, as well as the roles and responsibilities of key personnel. Id. at 104. The RFP required that offerors demonstrate maximum

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(Component II), cluster development in key sectors (Component III), and access to finance (Component IV). SOW at 22-32.

⁷ As pertinent here, the deputy chief of party was required to have at least 8 years of experience managing highly complex economic growth-related projects in developing countries, and strong technical expertise in economic growth, competitiveness, and private sector development, among other things. Component leaders were required to have 8 years of experience providing leadership and managing highly complex technical or financial interventions in their field of expertise, as well as experience relevant to accomplishing the cross-cutting objectives, including gender, youth, and regional coverage. RFP at 103; SOW at 47-48.

utilization of Jordanian professionals for in-country program staff and of Jordanian organizations, subcontractors, and grantees. Id. Offerors were encouraged to include plans to transfer responsibilities from expatriates to Jordanians over the life of the project. Id. The RFP also required that offerors explain how the competitive partnership fund would be administered and by whom. Id. The RFP stated that the agency would evaluate the quality of the proposed management plan and organizational structure, including the offeror's proposed maintenance and staffing of regional offices, as well as the clarity and quality of the offeror's proposed plan to manage the partnership fund. See id. at 113. Offerors were also informed that the agency would evaluate the extent to which offerors demonstrated a strategic use of local and international partnerships. See id.

The agency received proposals from [DELETED] offerors, including Louis Berger, which were evaluated by the agency's technical evaluation committee (TEC). See AR, Tab 11, TEC Report, at 1. The proposals were evaluated as follows:

[DELETED].

AR, Tab 11, TEC Evaluation Report, at 4-5. The TEC's point scores and adjectival ratings were supported by detailed narrative discussions that identified each firm's respective strengths and weaknesses. See generally, id.

With respect to the protester's proposal, the TEC found that, although Louis Berger had provided a good proposal with a few significant strengths and a number of other strengths,⁸ the proposal also had three significant weaknesses and an even greater number of weaknesses than strengths. See id. at 4. The TEC noted as a significant weakness, that the firm did not clearly address environmental considerations with respect to Louis Berger's proposal to target the agriculture/food processing and fertilizer/raw materials sectors, including their impact on the environment and water resources. Id. at 85. The TEC also found as a significant weakness that Louis Berger's proposed component I leader did not have 8 years of relevant experience, including experience managing complex economic growth projects, and, in that respect, also assessed a significant weakness with Louis Berger's proposal to have that individual become the firm's deputy chief of party in the second program year.⁹ See id. at 88-89.

⁸ The TEC noted as significant strengths Louis Berger's chief of party, who had extensive, direct experience; its proposal to use local partners, including [DELETED]; and its laudatory past performance. See AR, Tab 11, TEC Evaluation Report, at 88, 92, 95.

⁹ The agency states that the TEC report erroneously cites, under its evaluation of Louis Berger's proposed component I leader, the RFP's requirement for the deputy chief of party's experience, because Louis Berger proposed the same individual to

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The TEC also assessed a number of other weaknesses in Louis Berger's proposal. For example, the evaluators found that its selected business clusters (agriculture/food processing and fertilizer/raw material) would be particularly challenging to enhancing the economic participation of women; that Louis Berger proposed a high level of involvement by Jordan's National Council for Competitiveness and Innovation, although the Council had only recently been formed; and that Louis Berger was overly reliant on one proposed university partner and did not mention partnerships with, or sufficiently address capacity building of, relevant government ministries. See id. at 84-86. The TEC was also concerned with Louis Berger's proposal of a larger number of initial expatriate staff;¹⁰ its description of how it would manage and incorporate the competitive partnership fund into the program; and its proposal to provide an [DELETED] director, which the evaluators believed overlapped the chief of party's responsibility. Id. at 91.

The TEC concluded that, on balance, Louis Berger's significant and other weaknesses reflected a risk of non-performance at a level that warranted the exclusion of the firm's proposal from the competitive range. Id. at 4. The TEC recommended that the agency establish a competitive range including the [DELETED] highest-rated technical proposals. See id. at 4.

USAID also evaluated the realism of the offerors' cost proposals. Louis Berger's proposal had the highest probable cost. AR, Tab 12, Competitive Range Memorandum, at 45. Considering technical merit and probable cost, the contracting officer concluded that only the proposals of offerors [DELETED] should be included in the competitive range as the most highly-rated offers. Id.; CO's Statement at 1. Louis Berger's proposal was excluded, and this protest followed.

DISCUSSION

Louis Berger objects to the exclusion of its proposal from the competitive range, challenging virtually every aspect of the agency's evaluation of the firm's technical proposal. We have considered all of Louis Berger's arguments, and although we only discuss some of them, we find that they merely reflect the protester's disagreement with the agency's technical evaluation, and offer no basis to sustain the protest.¹¹

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serve as component I leader in program year 1 and as deputy chief of party in program year 2. See Supp. AR at 11; Supp. CO's Statement at 10; supra n.7.

¹⁰ Except for the chief of party, all of Louis Berger's proposed leadership positions for the first program year were expatriates. See AR, Tab 10-f, at 15.

¹¹ For example, Louis Berger initially protested the evaluation of its past performance, Protest at 24-25, but did not respond to the agency's report addressing
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Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Cylab Inc., B-402716, July 13, 2010, 2010 CPD ¶ 163 at 4. Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly-rated, or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. Federal Acquisition Regulation (FAR) § 15.306(c)(1); General Atomics Aeronautical Sys., Inc., B-311004, B-311004.2, Mar. 28, 2008, 2008 CPD ¶ 105 at 5. In this regard, a protester's disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. CMC & Maint., Inc., B-290152, June 24, 2002, 2002 CPD ¶ 107 at 2.

Technical Approach Factor

Louis Berger contends that the agency's evaluation of its proposal under the technical approach factor was contrary to the RFP. See, e.g., Supp. Comments & 2nd Supp. Protest at 6-15. According to the protester, the agency should have evaluated Louis Berger's proposed clusters based only on their potential for growth and employment, rather than focusing on cross-cutting issues. See Comments & Supp. Protest at 11. In this regard, Louis Berger contends that the RFP did not require offerors to detail the environmental impact of its selected business clusters, arguing that such considerations were contractual, and not proposal requirements.¹² See Protest at 4-5, citing RFP at 65-66. Moreover, the protester alleges that the agency evaluated offerors' proposal unequally, arguing that the TEC did not consider the environmental impact of business clusters selected by offerors A and B. Supp. Comments & 2nd Supp. Protest at 6. Louis Berger also argues that offerors were not required to select, or avoid, certain business clusters based on gender, as well as environmental considerations. See Protest at 5, 8-9; Comments & Supp.

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the protester's arguments. See generally, Comments & Supp. Protest. Thus, the protester abandoned its challenge to the agency's evaluation of Louis Berger's own past performance. In its second supplemental protest, the protester argued that the agency evaluated the offerors' past performance disparately, based on the protester's own tally of the number of strengths, weaknesses, and point scores between Louis Berger's and offeror D's past performance. Supp. Comments & 2nd Supp. Protest at 34; 2nd Supp. Comments at 17. We find from our review of the record that the protester's disparate treatment arguments merely reflect its disagreement with the agency's judgment and provide no basis to sustain the protest. See discussion infra p.12 (evaluation ratings and point scores).

¹² Louis Berger also suggests that it addressed environmental considerations for its selected clusters by identifying entities with whom the firm intended to partner to address environmental concerns. See Comments & Supp. Protest at 2-3, 5.

Protest at 3-11. The protester also disputes the TEC's concerns with Louis Berger's proposed partnership with the National Council for Competitiveness and Innovation, and other stakeholders generally. Protest at 18-20. The protester argues, among other things, that the government of Jordan has declared the council to be in the forefront of all matters related to national competitiveness, and therefore the agency overlooked the protester's proposal to build the council's capacity. Comments & Supp. Protest at 22.

USAID responds that its evaluation was consistent with the RFP criteria and that Louis Berger largely misinterprets the weaknesses assessed by the TEC. AR at 5, 16. For example, the agency states that the RFP required offerors to address environmental considerations and informed them that the agency would evaluate the quality of an offeror's approach in that regard. Id. at 5-6; Supp. AR at 24. In this respect, USAID asserts that the protester had a particular obligation, but failed, to address such considerations with respect to the clusters it selected. AR at 6.

USAID also maintains that all offerors' proposals were evaluated on how they addressed the cross-cutting issues (such as environmental considerations and gender) within their selected clusters and states that the TEC did not penalize Louis Berger for its cluster selections, but for failing to adequately consider the impact of its selections on cross-cutting issues. Supp. AR at 7-8. In response to the protester's concern that USAID may have evaluated proposals disparately with respect to the choice of business clusters and cross-cutting issues, the agency states that, simply because the TEC did not assign strengths, weaknesses, or deficiencies to some proposals in this regard, did not indictate that the TEC did not evaluate cross-cutting issues.¹³ See 2nd Supp. AR at 6-9. The agency also contends that Louis Berger's heavy reliance on the National Council for Competitiveness and Innovation may have been misplaced. See AR at 15. In the agency's view, Louis Berger may have overstated the abilities of the newly-established council, and failed to clearly address the role of other relevant ministries. See id.

The record shows that the agency's evaluation of the relative merits of Louis Berger's proposal was reasonable and that the TEC assessed strengths, weaknesses, and ratings in a fair and impartial manner consistent with the RFP. Here, as discussed above, the RFP explicitly instructed offerors to address, and informed them that the agency would evaluate the quality of, their overall technical approach to cross-cutting themes, including environmental considerations and

¹³ USAID states that the TEC did not document or discuss all aspects of a proposal that were only acceptable. Rather, the TEC was required to address proposal strengths, deficiencies, significant weaknesses, or risks. See 2nd Supp. AR at 6, citing FAR § 15.305(a).

gender. RFP at 102, 113. The RFP also advised offerors that, by law, the potential environmental impact of USAID activities must be identified prior to implementation, that environmental sustainability must be a central consideration in designing and carrying out development programs, and that appropriate safeguards must be adopted. Id. at 65-66. In this respect, we agree with the agency that Louis Berger did not address the environmental impact of its proposed activities simply by listing a handful of organizations.¹⁴ See Supp. AR at 3; CO's Supp. Statement at 2. In our view, USAID was not required to divine Louis Berger's technical approach to environmental considerations from the protester's check-the-box listing of over 100 potential "resource group partners."¹⁵ See, e.g., James Constr., B-402429, Apr. 21, 2010, 2010 CPD ¶ 98 at 5 (agency not required to piece together general statements and disparate parts of protester's proposal to determine the protester's intent).¹⁶ Moreover, nothing in the record suggests that the agency evaluated proposals disparately with regard to gender or environmental considerations. See, e.g., AR, Tab 11, TEC Evaluation Report, at 29, 102. To the extent that the protester objects to the agency's assessment of Louis Berger's proposed level of involvement by Jordan's National Council for Competitiveness and Innovation, the protester has not shown that assessment to be inconsistent with the RFP's notice that the agency would evaluate offerors' comprehensive understanding of the

¹⁴ Moreover, we note that, while the protester's proposal included various sections addressing the cross-cutting themes of gender, youth, and regional coverage, including with regard to specific tasks and deliverables, it did not specifically address environmental considerations. See, e.g., AR, Tab 10, Louis Berger Proposal, at 2, 4, 7, 27, 31-33, 37.

¹⁵ Louis Berger's proposal included a table of 134 resource group partner organizations that briefly described the organization's institutional mission and activities, and identified (by shading, or highlighting, corresponding boxes under columns for each program component and cross-cutting theme) the organizations' areas of "potential coordination with [the] JCP team[.]" AR, Tab 10-c, Louis Berger Proposal, annex C, Draft Work Plan, part 4, at 1-15. This table indicated that only 8 of the protester's 134 resource partners may be involved with environmental considerations. See id. Louis Berger's proposal also included general letters of commitment and support from 21 of the resource partners, including two of the eight organizations that were highlighted under environmental considerations— [DELETED]. See AR, Tab 10-i, Louis Berger Proposal, annex I, Letters of Commitment, at 13-43.

¹⁶ It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information which clearly demonstrates compliance with the solicitation requirements and allows a meaningful review by the procuring agency. See, e.g., International Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 7.

Jordanian political, social, and economic environment, or their approach to overcoming barriers and constraints, RFP at 113.¹⁷

Personnel Factor

Louis Berger also protests the agency's evaluation of its proposed key personnel, disputing, among other things, the agency's assessment that its component I leader and deputy chief of party lacked relevant experience. See Protest at 10-15; Comments & Supp. Protest at 13-17. The protester also objects to the agency's concern with the large number of expatriate staff it proposed, arguing that contractors were expected to use expatriate staff, at least initially, as reflected in the RFP's encouragement that offerors include plans to transition responsibilities from expatriates to Jordanian professionals. See Comments & Supp. Protest at 17-18.

The agency maintains that the protester's proposed component I leader did not have any experience running development programs. AR at 10. The agency also argues that the RFP's guidance on transitioning to Jordanian staff did not relieve offerors of their obligation to demonstrate maximum utilization of Jordanian professionals for in-country program staff. Supp. AR at 12, citing RFP at 104.

The record does not support the protester's challenges to the agency's evaluation of its proposal under the personnel factor. The solicitation explicitly encouraged offerors to use Jordanian professional staff to the maximum extent possible and stated that the agency would evaluate the composition, number, and skill mix of offerors' proposed staffing plans. RFP at 102, 113. In this respect, the protester has not shown that the agency's consideration of the number of expatriates proposed by Louis Berger in the first program year was inconsistent with the evaluation criteria. Similarly, several of the protester's arguments--such as its contention that its proposed component I leader is sufficiently qualified because of, among other things, his management experience as a recipient of development assistance, see, e.g., Comments & Supp. Protest at 15--reflect only Louis Berger's disagreement with the agency's judgment. In this regard, we find reasonable the agency's response that the proposed individual's private sector experience and experience as a recipient of development assistance were not leadership and management experience relevant to either the component I or deputy chief of party positions. See Supp. AR at 11-12; Supp. CO's Statement at 9-11. Moreover, the protester does not

¹⁷ The protester initially challenged the TEC's concerns with Louis Berger's proposed policy and legislative reforms and with the Louis Berger's conflation of career development centers with vocational training centers. See Protest at 18-20; AR, Tab 11, TEC Memorandum, at 84. The protester, however, did not respond to--or rebut--the agency's explanations in its report, and we consider these protest allegations to have been abandoned. See generally, Comments & Supp. Protest.

otherwise dispute the TEC's assessment that the individual lacked experience with youth or gender programs, which was also a stated requirement under the RFP. See RFP at 103; SOW at 48.

Management Approach Factor

Louis Berger also raises a number of arguments challenging the agency's evaluation of its proposal under the management approach factor. For example, the protester argues that the TEC unreasonably evaluated Louis Berger's proposal to partner with only one university, because the RFP did not require offerors to use multiple universities to provide training. Protest at 17-18. The protester also argues that the TEC unreasonably evaluated Louis Berger's competitive partnership fund plan, because, according to the protester, offerors were not required to articulate a fully-developed grant program. See Comments & Supp. Protest at 30; Supp. Comments & 2nd Supp. Protest at 15-16. Moreover, the protester argues that the TEC unreasonably evaluated Louis Berger's proposed [DELETED] director, because that position does not conflict with any part of the RFP. Comments & Supp. Protest at 27.

USAID responds that the protester did not demonstrate a strategic use of partnerships, including with regard to its proposed university partner. Supp. AR at 15. In this regard, the agency points out that the university's submission of a conditional letter of commitment highlighted Louis Berger's need to explain its significant reliance on only one academic institution.¹⁸ See id. The agency also argues that the RFP established significant requirements for the competitive partnership fund, but that the protester simply listed minimal screening criteria that a grant applicant must meet to be considered for a grant, rather than, for example, a schedule of evaluation factors, their relative weights, and the evaluation technique to be applied. See AR at 19; Supp. AR at 22-23.

USAID also explains that its assessment of a weakness with respect to the protester's proposal of an [DELETED] director reflected the agency's reasonable concern that this position was redundant. See AR at 17-18; Supp. AR at 20-21. In this regard, USAID states that the chief of party is the senior contractor representative responsible for management and performance of all aspects of the contract in-country, including [DELETED], and should be highly qualified in that

¹⁸ Louis Berger's proposal included a letter of commitment from the university that stated, among other things, that the university would subcontract with Louis Berger in the event that contract award were forthcoming, but that the university was not currently registered to undertake the relevant research, that necessary approvals may not be in place to undertake the project immediately, and that an inevitable, perhaps lengthy delay is likely in that regard. See AR, Tab 10-i, at 2.

regard and not require an additional level of oversight and supervision. See AR at 17-18.

Here, too, the record shows that the agency reasonably evaluated the protester's proposal consistent with the RFP's stated evaluation criteria. As we discuss above, the RFP stated that the agency would evaluate an offeror's strategic use of local and international partnerships, as well as the offeror's proposed management plan and organizational structure. RFP at 113. In this regard, we find the agency's assessment that Louis Berger's reliance on one proposed university partner for curriculum development was reasonable, particularly where the proposed university's partnership is so clearly conditional, as reflected in its commitment letter. Moreover, the RFP required offerors to explain how they would administer the competitive partnership fund, and requires the contractor to submit a manual for implementing and managing grants under the contract. Id. at 43, 104. Although the protester disputes the extent of the agency's evaluation in that regard, it has not shown how the evaluation was inconsistent with the RFP's requirements. Furthermore, the protester's challenge to the agency's assessment of a weakness with respect Louis Berger's proposal of a [DELETED] director only reflects the protester's continuing disagreement with the agency's evaluation judgment.

Competitive Range Exclusion

Louis Berger also complains that the exclusion of its proposal from the competitive range was unreasonable, where its proposal received nearly the same point score as the lowest-rated proposals included in the competitive range. See Supp. Comments & 2nd Supp. Protest at 1-4.

It is well established that ratings, be they numerical, adjectival, or color, are merely guides for intelligent decision making in the procurement process. Career Innovations, LLC, B-404377.4, May 24, 2011, 2011 CPD ¶ 111 at 7. The essence of an agency's evaluation is reflected in the evaluation record itself, not the adjectival ratings, and there is no legal requirement that an agency must award the highest possible rating, or the maximum point score, under an evaluation factor simply because the proposal contains strengths and/or is not evaluated as having any weaknesses. See, e.g., Environmental Restoration, LLC, B-406917, Sept. 28, 2012, 2012 CPD ¶ 266 at 5. As we discuss above, the agency's evaluation was reasonable and consistent with the stated evaluation criteria. We also find that, contrary to the protester's assertion, see 2nd Supp. Comments at 5, the agency's technical evaluation was adequately documented.

In sum, although the protester may disagree with the agency's evaluation of its technical proposal, the record demonstrates that the TEC and the CO considered all of the information submitted by offerors and available to the agency, and issued a well-reasoned and rational evaluation report and competitive range determination that extensively highlighted key discriminators between the protester's and other

offerors' proposals. Louis Berger's disagreement with the agency's conclusions regarding weaknesses in its proposal does not establish that the agency's judgment concerning the merits of the protester's proposal was unreasonable. See Savannah River Alliance, LLC, B-311126 et al., Apr. 25, 2008, 2008 CPD ¶ 88 at 7 (protest of evaluation ratings based on protester's selective identification of, and disagreement with, evaluation assessments denied where detailed evaluation record shows that agency assessed ratings based on proposals' merits and fairly highlighted key discriminators in that regard); Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11. Accordingly, we find reasonable the agency's judgment that Louis Berger's proposal was not among the most highly-rated offers, and the exclusion of the protester's proposal from the competitive range on this basis.

The protest is denied.

Susan A. Poling
General Counsel