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## Decision

**Matter of:** All Points Logistics, Inc.

**File:** B-407273.53

**Date:** June 10, 2014

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Thomas K. David, Esq., and Kenneth D. Brody, Esq., David, Brody & Dondershine, LLP, for the protester.

J. Cobbie de Graft, Esq., Law Offices of J. Cobbie de Graft, for Technatomy Corporation; John E. McCarthy, Jr., Esq., and Derek R. Mullins, Esq., Crowell & Moring LLP, for TRI-COR Industries, Inc.; and Thomas O. Mason, Esq., Francis E. Purcell, Jr., Esq., David E. Fletcher, Esq., and Christopher Kimball, Esq., Cooley LLP, for Knight Point Systems, LLC, the intervenors.

Charles K. Bucknor, Jr., Esq., Department of Homeland Security, for the agency. Noah B. Bleicher, Esq., and Sharon L. Larkin, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

1. Protest objecting to agency's reevaluation of proposal under corporate experience factor is denied where agency was not required to consider results of initial evaluation and reevaluation was reasonable and consistent with the solicitation's requirements.
  2. Protest objecting to agency's past performance reevaluation is denied where record shows that agency considered various past performance information that reasonably justified the rating assigned.
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### DECISION

All Points Logistics, Inc. (APL) of Merritt Island, Florida, protests the Department of Homeland Security's (DHS) decision not to award the firm a contract under the functional category 1, service-disabled veteran-owned small business (SDVOSB) track, of request for proposals (RFP) No. HSHQDC-11-R-10001, issued by DHS for information technology (IT) services. The protester challenges the agency's evaluation under the solicitation's corporate experience and past performance factors as well as the source selection decision.

We deny the protest.

## BACKGROUND

DHS issued the RFP on November 1, 2010, seeking proposals for the second generation of DHS's enterprise acquisition gateway for leading-edge solutions II (EAGLE II) program. The RFP anticipated the award of multiple indefinite-delivery/indefinite-quantity contracts under which DHS would place fixed-price, cost-reimbursement, time-and-materials, or labor-hour task orders.<sup>1</sup> RFP at 2, 90. The RFP provided that contracts would be awarded for a 5-year base period and a single 2-year option period. Id. at 2. The RFP identified an unrestricted and a small business set-aside track. Id. at 108. Within each track, offerors competed for awards in one of three functional categories (FC): service delivery (FC1); IT program support services (FC2); and independent test, validation, verification, and evaluation (FC3).<sup>2</sup> Id. at 10, 109. The RFP advised that DHS would conduct "separate and distinct" evaluations and make a "manageable number of awards" within each track and functional category. Id. at 109.

This protest concerns the agency's evaluation of APL's proposal in the SDVOSB track of FC1. According to the solicitation's statement of work, FC1 contractors were to provide a "full range of services and products in support of developing, implementing, and maintaining technology to support the DHS mission and business functions across the entire lifecycle of a program." Id. at 11. The RFP identified the following services under FC1: system design, development, implementation, and integration; software design and development; and operations and maintenance. Id.

The RFP advised offerors that awards would be made on a best-value basis considering price and the following non-price factors, listed in descending order of importance: corporate experience, past performance, program management, and staffing. Id. at 109. The non-price factors, when combined, were "significantly more important than price." Id. at 111. Pursuant to the RFP, awards would be made to the offerors whose proposals were deemed most advantageous to the government. Id. at 109.

The RFP provided detailed instructions for the preparation of proposals under each evaluation factor. For the corporate experience factor, the RFP instructed the offeror to "describe its qualifications and detail its specific experience conducting work of the same and/or similar nature" to that described in the RFP's statement of

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<sup>1</sup> The RFP was amended 18 times during this procurement. Citations in this decision to the solicitation are to the conformed RFP issued via amendment 5.

<sup>2</sup> The FC1 small business track was divided into four categories for award: 8(a), Historically Underutilized Business Zone (HUBZone), SDVOSB, and all small businesses. RFP at 109.

work. Id. at 98. The offeror was required to include with its proposal: (a) “a narrative statement of its qualifications for being a prime contractor on EAGLE II and what expected benefit DHS will derive,” and (b) “five different examples of corporate experience information for active or complete ‘relevant/recent’ contracts/task orders and/or subcontracts . . . directly related to the services identified in the proposed FC.”<sup>3</sup> Id. The RFP required that at least one of the five corporate experience examples be from the prime offeror (as opposed to the offeror’s core team members) and that at least one of the experiences demonstrate the offeror’s use of “creative solutions or innovations in achieving or exceeding customer objectives.” Id. The RFP required the offeror to provide specific information for each corporate experience project, including, for example, the project value, contract type, and start and completion date. Id. at 98-99. Additionally, the offeror was to provide a project description for each corporate experience example, in which the offeror was instructed to:

Identify the prime or core team member that performed the work. Describe the key objectives of the project, including the scope and complexity of the efforts and how the customer benefited operationally or strategically. Describe any other aspects of the project to demonstrate its relevance to being a DHS EAGLE II Contractor. Describe the applicable prime/member’s role in the project and the challenges and lessons learned from your experience as the prime or subcontractor. Describe the integration of resources . . . into the customer’s environment.

Id. at 99.

In evaluating proposals under the corporate experience factor, the RFP provided that DHS would consider the extent to which the offeror had demonstrated the “qualifications and corporate experience to be an EAGLE II contract holder in performing work of the same or similar nature as that of the EAGLE II requirements in the proposed FC.” Id. at 110. The RFP further stated that the agency would evaluate any creative or innovative solutions the offeror applied to achieve or exceed customer objectives. Id. The source selection evaluation plan advised that the agency would document the strengths, weaknesses, and deficiencies under the evaluation factor<sup>4</sup> and assign the proposal an adjectival rating of superior, good,

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<sup>3</sup> The RFP defined recent as within the last 3 years from the date of release of the RFP. Relevant was defined as “work which is the same and/or similar in complexity and scope to the work described in an EAGLE II FC.” RFP at 98.

<sup>4</sup> As relevant here, the source selection evaluation plan defined a strength as [deleted]. Agency Report (AR), Tab 6(a), Source Selection Evaluation Plan, at 28. A “meets requirements” was assigned when the offeror’s response [deleted]. Id.

satisfactory, marginal, or unsatisfactory.<sup>5</sup> AR, Tab 6(a), Source Selection Evaluation Plan, at 16-17, 29-30.

With regard to past performance, the RFP instructed offerors to demonstrate past performance in each of the five projects submitted for the corporate experience factor. RFP at 99. Offerors were instructed to submit a “brief narrative statement” describing how each example “demonstrates a favorable experience for the customer and how it is an indication of expected quality on EAGLE II.” Id. The RFP also required the submission of past performance questionnaires for each of the examples. The RFP stated that the offeror was “responsible for ensuring that each of the customer references receives, completes and returns [the past performance questionnaire] to the Contracting Officer.” Id. As relevant here, the RFP expressly advised, “Failure to receive a questionnaire from a reference will result in the non-consideration of the reference.” Id. The solicitation also provided that DHS may obtain other past performance information from a variety of sources beyond what the offeror submits in its proposal. Id. at 99, 110.

In evaluating proposals under the past performance factor, the RFP provided that DHS would “assess the level of confidence in the Offeror’s ability to successfully perform as an EAGLE II contract holder in delivering high quality service and solutions within the proposed FC.” Id. at 110. Offerors would be assigned past performance ratings of excellent, satisfactory, unsatisfactory, or neutral.<sup>6</sup> AR, Tab 6(a), Source Selection Evaluation Plan, at 30.

Seventy-one offerors, including APL, submitted proposals in the SDVOSB track for FC1 prior to the RFP’s February 23, 2011, deadline. AR, Tab 10, Source Selection Evaluation Board (SSEB) Report, at 5, 9. A technical evaluation panel (TEP) evaluated the technical proposals and assigned adjectival ratings under each of the factors. A business management and price evaluation panel (BMPEP) evaluated price proposals for accuracy, completeness, and reasonableness. AR, Tab 6(a),

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<sup>5</sup> The source selection evaluation plan defined a superior proposal as one that [deleted]. AR, Tab 6(a), Source Selection Evaluation Plan, at 29 (emphasis in original). The source selection evaluation plan further stated that a superior proposal may be characterized by [deleted]. Id. In contrast, a satisfactory proposal was defined as one that [deleted]. Id. (emphasis in original). The source selection evaluation plan stated that a satisfactory proposal may be characterized by [deleted]. Id.

<sup>6</sup> Pursuant to the source selection evaluation plan, excellent past performance meant that [deleted]. AR, Tab 6(a), Source Selection Evaluation Plan, at 30. Satisfactory past performance meant that [deleted]. Id.

Source Selection Evaluation Plan, at 19. APL’s proposal was initially rated as follows:

	<b>Corporate Experience</b>	<b>Past Performance</b>	<b>Program Management</b>	<b>Staffing</b>	<b>Total Evaluated Price</b>
<b>APL</b>	Satisfactory	Excellent	Superior	Satisfactory	\$350,218,343.16

Protest, exh. 1, DHS June 18, 2013 Debriefing, at 2. The agency conducted a best value tradeoff and determined that six offerors represented the best value to the agency, and these firms, which did not include APL, were selected for awards. Id. at 1. As relevant here, according to the debriefing, the TEP did not assign APL’s proposal any strengths under the corporate experience factor. Id. at 2-3. Additionally, the debriefing identified what the protester refers to as “flaws” in the proposal, such as that APL did not follow font size instructions and that work experiences were “only ‘vaguely’ relevant” to FC1 services. See id.; Protest at 15.

After receipt of the written debriefing, APL protested to our Office challenging the agency’s evaluation of its proposal and the agency’s decision not to award the firm a contract. As a result of the protest, DHS took corrective action, which included reevaluating APL’s proposal in its entirety--not just the portions APL challenged in its protest--and, if appropriate, awarding a contract to the firm. Based on the agency’s corrective action, our Office dismissed the protest as academic. All Points Logistics, Inc., B-407273.11, July 9, 2013.

DHS’s reevaluation of APL’s entire proposal resulted in the following ratings:

	<b>Corporate Experience</b>	<b>Past Performance</b>	<b>Program Management</b>	<b>Staffing</b>	<b>Total Evaluated Price</b>
<b>APL</b>	Satisfactory	Satisfactory	Superior	Good	\$350,218,343.16

AR, Tab 10, SSEB Report, at 10. Thus, as relevant here, the firm’s corporate experience rating remained the same and the firm’s past performance rating was lowered. In assigning the firm a satisfactory rating under the corporate experience factor, the TEP concluded that APL’s proposal was “proficient” and that the firm “demonstrate[d] the capability to perform the [FC1] services. . . .” AR, Tab 8, Technical Evaluation Report for Reevaluation, at 405. The TEP assigned the proposal two strengths under the factor, one for APL’s general narrative statement of qualifications and another for the firm’s examples of creative and innovative solutions. Id. at 406. The evaluators found that each of APL’s five corporate experience examples “satisf[ie]d the minimum requirements without exceeding them.” Id. at 406-08.

With regard to the firm’s past performance, the record shows that the agency considered four of the firm’s five past performance examples, those for projects 1, 2, 3, and 5; the agency did not receive a completed past performance questionnaire

for project 4 and, therefore, the project was not considered. Id. at 409. The evaluators assessed APL's proposal narrative for project 1 as a strength and found that the narratives for projects 2, 3, and 5 met the RFP's requirement. Id. at 410, 413. With respect to the APL's past performance questionnaires, for project 1, the evaluators concluded that the firm met the RFP's requirements, noting that the reference rated the firm satisfactory under four of the elements.<sup>7</sup> Id. at 413-14. For the questionnaires for projects 2, 3, and 5, the evaluators noted as a strength that APL received superior ratings in each performance element for projects 2 and 3, and APL was rated superior in all but one element for project 5. Id. at 410-12. Additionally, the TEP reviewed past performance information regarding APL in the Past Performance Information Retrieval System (PPIRS). Id. at 409.

The TEP and BMPEP presented their consensus findings in reports to the source selection evaluation board (SSEB). The SSEB reviewed the technical and price findings and conducted a "comparative analysis of the proposals considered among the most highly rated." AR, Tab 10, SSEB Report, at 9. In its report, the SSEB first sorted the offerors by their technical ratings. Id. at 9-11. To identify the most highly-rated proposals, the SSEB ranked the offers by descending order of importance of the non-price factors. That is, offers rated highest in the most important factor of the RFP, corporate experience, were ranked ahead of those with lower corporate experience ratings; offers with the same corporate experience rating were then ranked by past performance rating; offers with the same past performance ranking were then ranked by the ratings in the remaining factors. Id. Based on this methodology, APL's proposal was ranked 36th for the non-price factors. APL proposed a lower price than all but one proposal ranked higher than APL's. See id. at 9-10.

Thereafter, the SSEB conducted a tradeoff analysis to determine whether the agency should award contracts to other than the highest technically-rated offerors or the lowest-priced offerors. Id. at 12. The SSEB determined that seven proposals were the highest-rated, considering both the non-price factors and price. Id. The SSEB conducted a tradeoff analysis that took into account the non-price factors and price. Although APL proposed a lower price than the highest-rated firms, the SSEB concluded that the "technical superiority" of the higher-rated firms justified the higher prices. Id. at 53. The SSEB determined that the seven highest-rated offers

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<sup>7</sup> Past performance references rated APL or its core team members' performance under six elements: quality of product or service, schedule, cost control, business relations, management of key personnel, and utilization of small business. RFP, attach. L-2, Past Performance Questionnaire, at 3-4. However, the utilization of small business category was not considered in the evaluation of the SDVOSB track of FC1 vendors. See AR, Tab 8, Technical Evaluation Report for Reevaluation, at 411.

represented the best value to the agency and these firms were recommended to the source selection authority (SSA) for award. Id. at 12, 65.

The SSA reviewed the SSEB's report and agreed with its assessments and award recommendations. AR, Tab 11, Source Selection Decision Memorandum for Reevaluation, at 1. With regard to APL's proposal, the SSA concluded that APL "did not present a sufficient combination of non-price and price attributes to be considered to represent the best value to the government." Id. at 10. Instead, the SSA determined that the seven proposals recommended for award were the "most highly rated and qualified Offerors to support the EAGLE II program" and award was made to these offerors. Id. at 11.

On January 30, 2014, DHS notified the protester that it had not been selected for award. APL timely requested a debriefing, which the agency provided in writing on February 27. AR, Tab 14, Debriefing Letter to APL, at 1-8. This protest followed.

## DISCUSSION

APL challenges the agency's reevaluation of its proposal under the corporate experience and past performance factors. APL also objects to the agency's cost/technical tradeoff and award decisions.

The evaluation of an offeror's proposal is a matter within the agency's discretion, and this Office will not reevaluate proposals; rather, we will review an agency's evaluation to determine whether the agency's judgments were reasonable and consistent with the stated evaluation criteria. See, e.g., Rome Research Corp., B-291162, Nov. 20, 2002, 2002 CPD ¶ 209 at 4. A protester's disagreement with an agency's judgments does not render the evaluation unreasonable. Id.

### Corporate Experience

First, APL contends that DHS' reevaluation of the firm's proposal under the corporate experience factor was unreasonable because it resulted in the same satisfactory rating originally assigned to the proposal. Protest at 15. In this regard, as discussed above, DHS' original evaluation of APL's proposal under the factor did not result in the assignment of any strengths, and the original debriefing identified what APL refers to as "flaws" in the proposal. See id.; Protest, exh. 1, DHS June 18, 2013 Debriefing, at 2-3. In its reevaluation of the proposal, DHS assigned the proposal two strengths under the factor and APL contends that the evaluators did not identify any flaws. AR, Tab 8, Technical Evaluation Report for Reevaluation, at 406. APL argues that the "marke[d] improvement in seemingly all aspects of APL's Corporate Experience" should have warranted a higher rating. Comments at 7.

The fact that a reevaluation varies, or does not vary, from an original evaluation does not constitute evidence that the reevaluation was unreasonable. It is implicit that a reevaluation could result in different findings and conclusions. IAP World Servs., Inc., B-406339.2, Oct. 9, 2012, 2012 CPD ¶ 287 at 3-4; QinetiQ North Am., Inc., B-405163.2 et al., Jan. 25, 2012, 2012 CPD ¶ 53 at 13; Sabre Sys., Inc., B-402040.2, B-402040.3, June 1, 2010, 2010 CPD ¶ 128 at 5 n.3. The essence of an agency's evaluation is reflected in the evaluation record itself, not in the adjectival ratings or adjectival characterizations of proposal features as strengths or weaknesses. See Stateside Assocs., Inc., B-400670.2, B-400670.3, May 28, 2009, 2009 CPD ¶ 120 at 8. The overriding concern is not whether the final ratings are consistent with earlier ratings, but whether they reasonably reflect the relative merits of proposals. See Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 11 (denying protest that agency reevaluation and technical ratings were unreasonable because agency did not explain why evaluations differed between the initial evaluation and reevaluation undertaken during corrective action).

Here, DHS's reevaluation of APL's proposal under the corporate experience factor was reasonable and consistent with the solicitation. In accordance with the RFP, APL's proposal included a description of the firm's qualifications to be an EAGLE II prime contractor and five examples of the firm's corporate experience. RFP at 98; AR, Tab 7, APL Proposal, Tab C, at 1-10. The record shows that the TEP conducted a new evaluation of APL's proposal, without regard to any of its original evaluation findings. In the reevaluation, the evaluators highlighted that APL's narrative statement included a table that detailed the firm's "respective benefits to DHS that included successful systems integration, cost effective solutions, flexible and innovative solutions, strategic perspective and [being] a complete solution provider." AR, Tab 8, Technical Evaluation Report for Reevaluation, at 406. The evaluators also noted APL's "highly capable" program management team, which APL had also discussed in its description of the firm's qualifications. Id. These features resulted in the TEP assigning this aspect of APL's proposal a strength. Id.

The TEP assigned APL's proposal a second strength for the firm's use of creative and innovative solutions in three projects. For example, the evaluators commended APL's development of a "comprehensive agreement with a major software provider for highly discounted rates." AR, Tab 8, Technical Evaluation Report for Reevaluation, at 406. In another project, the evaluators highlighted APL's "exceedingly quick response time in addressing the daily operations" of the contract. Id.

With respect to APL's five examples of corporate experience, the record shows that the agency reviewed the submissions and summarized each of the examples in its evaluation report. The evaluators concluded that the experiences were recent, relevant, and satisfied the solicitation's minimum requirements without exceeding them. Id. at 406-08. No strengths were assigned to any of APL's corporate experience examples.

The record here reflects a comprehensive reevaluation of APL's proposal in which the TEP documented various features of the proposal and reasonably determined that it warranted a satisfactory rating under the corporate experience factor. We agree with the agency that APL's original ratings and evaluation results are not relevant to the reevaluation of the proposal. See AR at 8. In this regard, that the agency identified strengths in the proposal for the first time during its reevaluation does not require the agency to assign the proposal a higher rating than assigned during its initial evaluation. See generally QinetiQ North America, Inc., supra, at 13.

Next, APL contends that the agency's internal source selection evaluation plan--which was not incorporated into the solicitation--requires that its proposal be assigned a superior rating under the corporate experience factor. Comments at 4. Specifically, APL argues that the source selection evaluation plan requires a proposal with no weaknesses--like APL's--to be assigned a good or superior rating. Id.; see AR, Tab 6(a), Source Selection Evaluation Plan, at 29 (defining a satisfactory proposal as one that [deleted] and a superior proposal as one with [deleted]).

APL's complaint ignores that the ratings were not based solely on the number of strengths and weaknesses assigned to a proposal.<sup>8</sup> Instead, in rating the proposal satisfactory under the corporate experience factor, the record shows that the agency performed a qualitative assessment of the merits of the proposal. The evaluation here was consistent with the criteria identified in the solicitation, i.e., the extent to which the offeror demonstrated the qualifications and corporate experience to be an EAGLE II contract holder and the extent to which the offeror applied creative and innovative solutions to achieve or exceed objectives.<sup>9</sup> See RFP at 110. After reviewing the qualitative aspects of the proposal, the TEP reasonably determined that the proposal was "proficient" and "demonstrate[d]" the

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<sup>8</sup> Because ratings were not based on a mathematical count of the number of strengths and weaknesses in a proposal, APL's arguments in which the protester compares its rating to ratings assigned to awardees' proposals that had the same or fewer strengths as APL's does not provide a basis to sustain the protest. See Comments at 6.

<sup>9</sup> APL also argues that the agency should have assigned the proposal a superior corporate experience rating because the TEP identified more than one example of APL's creative and innovative solutions. Protest at 16. We are not persuaded by the protester's assertion because an offeror's use of creative and innovative solutions was but one aspect of the agency's evaluation under the factor. See RFP at 110. With respect to APL's five actual examples of corporate experience, as explained above, the TEP reasonably determined that each only met the RFP's requirements and none merited a strength. AR, Tab 8, Technical Evaluation Report for Reevaluation, at 406-08.

capability to perform the services in the proposed functional category.” AR, Tab 8, Technical Evaluation Report for Reevaluation, at 405; see also AR, Tab 6(a), Source Selection Evaluation Plan, at 29. APL’s position that the lack of any weaknesses in the proposal required a rating higher than satisfactory, based on language in the source selection evaluation plan, does not provide a basis to sustain the protest.<sup>10</sup>

### Past Performance

Next, APL challenges DHS’ evaluation of the firm’s past performance. As discussed above, the agency initially rated the firm excellent under the factor. See Protest, exh. 1, DHS June 18, 2013 Debriefing, at 2. APL objects to the agency’s reevaluation of the firm’s past performance, which resulted in a rating change to satisfactory.<sup>11</sup> Protest at 17; see AR, Tab 8, Technical Evaluation Report for Reevaluation, at 408. APL maintains that its past performance information is consistent with an excellent rating. Comments at 9.

The evaluation of an offeror’s past performance is within the discretion of the contracting agency, and we will not substitute our judgment for reasonably based past performance ratings. MFM Lamey Group, LLC, B-402377, Mar. 25, 2010, 2010 CPD ¶ 81 at 10. Where a solicitation calls for the evaluation of past performance, we will examine the record to ensure that the evaluation was reasonable and consistent with the solicitation’s evaluation criteria and procurement

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<sup>10</sup> In any event, we have consistently held that an agency’s source selection plan is merely an internal guide that does not give rights to parties; it is the RFP’s evaluation scheme, not internal agency documents such as source selection plans, to which an agency is required to adhere in evaluating proposals. J5 Sys., Inc., B-406800, August 31, 2012, 2012 CPD ¶ 252 at 13 n.14; Meadowgate Techs., LLC, B-405989, B-405989.3, Jan. 17, 2012, 2012 CPD ¶ 27 at 6 n.7.

<sup>11</sup> APL generally questions why the agency reevaluated its past performance because that aspect of the firm’s proposal was not something challenged in its initial protest. Comments at 10. In this respect, APL suggests that the reevaluation “may very well have been unreasonably undertaken.” Id. at 11. Contracting officers in negotiated procurements have broad discretion to take corrective action where the agency determines that such action is necessary to ensure a fair and impartial competition. Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 8. As a general matter, the details of corrective action are within the sound discretion and judgment of the contracting agency. Rockwell Elec. Commerce Corp., B-286201.6, Aug. 30, 2001, 2001 CPD ¶ 162 at 4. Here, we find that APL has not shown that the agency’s decision to reevaluate the firm’s proposal in its entirety was unreasonable or beyond the agency’s discretion.

statutes and regulations. Divakar Techs., Inc., B-402026, Dec. 2, 2009, 2009 CPD ¶ 247 at 5.

As discussed above, in accordance with the solicitation, APL submitted with its proposal a “brief narrative statement” describing the firm’s five examples of past performance. AR, Tab 7, APL Proposal, vol. 1, Tab D, at 1-5; see RFP at 99. APL also requested that government references complete and submit to the agency past performance questionnaires for those projects. See AR, Tab 12, APL Past Performance Questionnaires, Requests, and Responses, at 1-14, 22-25. The record shows that the TEP considered both APL’s narrative descriptions and related past performance questionnaires for four of the five past performance projects APL submitted for review; the agency did not receive a completed past performance questionnaire for project 4, so in accordance with the solicitation, that project was not considered.<sup>12</sup> See AR, Tab 8, Technical Evaluation Report for Reevaluation, at 409; RFP at 99.

With respect to APL’s project descriptions, the evaluators concluded that project 1 merited a strength because, among other reasons, APL demonstrated a “favorable experience for the customer” and “completed all milestones on or before the established deadline, and maintained cost on or under budget.” AR, Tab 8, Technical Evaluation Report for Reevaluation, at 410. For projects 2, 3, and 5, the TEP noted different aspects of the past performance that were “an indication of [APL’s] expected quality on EAGLE II,” and it concluded that these met the RFP’s requirements but did not warrant a strength. Id. at 413.

With respect to the past performance questionnaires, as stated above, the evaluators noted that the government references for projects 2, 3, and 5 assigned APL almost all superior ratings on their respective questionnaires and indicated that

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<sup>12</sup> APL objects to the agency’s actions regarding the past performance questionnaire for project 4, performed by one of APL’s core team members at NASA. Protest at 19; Comments at 11 n.5. APL argues that the agency should have informed the firm that the questionnaire was not received. We disagree. In this regard, as explained above, the RFP expressly warned that the offeror was responsible for ensuring that references submitted the completed past performance questionnaires; the agency was under no obligation to reach out to any offerors or references. RFP at 99. Nevertheless, the record shows that a TEP member contacted the government reference for the NASA project to try and obtain past performance information. AR, Tab 12, APL Past Performance Questionnaires, Requests, and Responses, at 14. In response, the NASA reference advised DHS that performance information was not available because the contract had been performed four years earlier. Id. We have no basis to question the agency’s actions in this regard. In addition, APL has not demonstrated that considering this project would have improved the results of the firm’s past performance evaluation.

they would do business with APL (or its core team members) again. See AR, Tab 12, APL Past Performance Questionnaires, Requests, and Responses, at 5-13, 21-24. The TEP deemed these questionnaire results as strengths. AR, Tab 8, Technical Evaluation Report for Reevaluation, at 410-12. The government reference for project 1 assigned APL primarily satisfactory ratings for its work and indicated that she would do business with the firm again. AR, Tab 12, APL Past Performance Questionnaires, Requests, and Responses, at 1-4. The evaluators concluded that the past performance questionnaire for project 1 met the RFP requirements but did not warrant a strength. AR, Tab 8, Technical Evaluation Report for Reevaluation, at 413-14.

In addition, as part of DHS' reevaluation of APL's proposal, and consistent with the solicitation's notice that the agency could obtain past performance information from other sources, RFP at 99, 110, a TEP member reviewed PPIRS seeking information for APL's core team member's performance under project 4 (due to the missing questionnaire). See AR, Tab 16, Evaluator's Memorandum for the Record, at 2. Although the evaluator did not find information on project 4, the evaluator identified other past performance information in PPIRS that assessed APL's performance on a "relevant project" for software maintenance support services. Id. The record shows that APL was assigned a satisfactory rating under the performance elements assessed in the PPIRS report. AR, Tab 16, PPIRS Information, at 5. The evaluator concluded that the PPIRS information for APL "did not indicate a pattern of poor performance." AR, Tab 16, Evaluator's Memorandum for the Record, at 2.

After conducting the new review of all of APL's past performance information--including both the areas that were identified as strengths as well as those where APL met the RFP requirements--the agency determined that the proposal warranted a satisfactory rating. AR, Tab 8, Technical Evaluation Report for Reevaluation, at 408. In reaching this conclusion, the TEP explained that the majority of narratives only met the requirements and the firm received only satisfactory ratings on project 1 and on the PPIRS assessment; this caused the agency to conclude that "some doubt exists that [APL] will successfully perform the required effort." Id. at 408-09.

Primarily, APL complains that in evaluating the firm's past performance, the agency should have focused on "more recent and relevant assessments" instead of the two past performance assessments that included satisfactory ratings--the questionnaire for project 1 and the PPIRS assessment for the software support services contract. Comments at 12-13. For example, APL explained that it received "very good" ratings in an assessment in PPIRS for past performance project 1 that was completed after the past performance questionnaire was submitted to DHS.<sup>13</sup>

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<sup>13</sup> While the past performance questionnaires provided for ratings of superior, satisfactory, unsatisfactory, or neutral, RFP, attach. L-2, Past Performance

(continued...)

Comments, exh. B, APL Assessment on First Source Contract, at 3-4. In this respect, APL argues that it was “patently unfair” for the agency not to rely on this and other assessments in rating APL’s past performance, and APL complains that DHS “cherry-picked” the past performance assessments it considered. Comments at 15, 16. Similarly, the protester asserts that all of the questionnaires and PPIRS assessments actually support an excellent rating because the references all indicated that they would do business with the firm (or its core team members) again. Id. at 15-16.

We find the protester’s arguments unpersuasive. The record does not show that the agency “cherry-picked” past performance, but rather that the agency considered a variety of available past performance information in a manner that was consistent with the evaluation criteria. For example, as explained above, the evaluation included a review of APL’s projects via the narrative statements APL submitted, as well as the references’ questionnaire responses and information from PPIRS. The agency concluded that only one of APL’s project narratives warranted a strength and three met the RFP’s requirements without exceeding them. The agency also found that, while three questionnaires rated APL’s performance as mostly (but not entirely) superior, one questionnaire and information in PPIRS supported only a satisfactory rating. The fact that the references indicated that they would do business with APL again does not demand that the agency assign APL a higher rating where, as here, the agency has followed the stated evaluation criteria in its evaluation. On this record, we cannot find fault with the agency’s conclusion that, on balance, APL deserved a satisfactory past performance rating.

#### Best Value Determination

Lastly, APL contends that the agency’s best value award decisions were “irrational.” Protest at 21; Comments at 18. Specifically, APL argues that its lower-priced offer was a better value than the awardees’ and that the agency did not explain why the awardees’ technical superiority over APL warranted paying price premiums. Protest at 22.

Where, as here, the RFP provides for a best value decision, the source selection official retains discretion to select a higher-priced but technically higher-rated submission, if doing so is in the government’s best interest and is consistent with the solicitation’s stated evaluation and source selection scheme. 4-D Neuroimaging, B-286155.2, B-286155.3, Oct. 10, 2001, 2001 CPD ¶ 183 at 10. The source selection official has broad discretion in determining the manner and

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(...continued)

Questionnaire, at 2, the PPIRS assessments provided for ratings of exceptional, very good, satisfactory, marginal, and unsatisfactory. See AR, Tab 16, PPIRS Information, at 5.

extent to which he/she will make use of technical and cost evaluation results, and this judgment is governed only by the tests of rationality and consistency with the stated evaluation criteria. Id.

As explained above, DHS provided a detailed record of its evaluation and source selection decision. The SSEB report includes comparisons of the “most highly rated proposals” and those with lower ratings and/or lower evaluated prices. See AR, Tab 10, SSEB Report, at 12, 19. The record shows that the SSEB’s analysis went beyond a mere comparison of the adjectival ratings and included a detailed comparative assessment of the merits of competing proposals.

With respect to APL’s proposal, the SSEB compared it with four proposals from the group of the highest-rated offers, each of which had higher technical ratings and proposed higher prices than APL. Id. at 21, 35-40, 42-43, 49, 52-55. In each instance, the SSEB reasonably concluded that the higher technically-rated proposals were a better value than APL’s lower-priced offer, primarily because of their “superiority” under the corporate experience and past performance factors--the two most important non-price factors. E.g., id. at 43. For example, in comparing APL’s proposal with the offer with the lowest ratings in the initial group of the highest-rated offers,<sup>14</sup> the SSEB highlighted the strengths of the two proposals and concluded that the other firm’s “more robust corporate experience and a more consistent record of successful past performance” justified its higher evaluated price. Id. Likewise, in comparing APL’s proposal with the offer with the highest evaluated price in the initial group of the highest-rated offers,<sup>15</sup> the SSEB detailed the evaluation results of the offers, acknowledged APL’s 25.97 percent price advantage (over 7 years of performance), but still concluded that the other offeror’s “significant level of technical superiority” made it a better value to the DHS than APL, particularly when the non-price factors were significantly more important than price. Id. at 53; see RFP at 111.

As discussed above, the SSA agreed with the SSEB’s assessments and award recommendations. In his decision document, the SSA detailed the merits of each of the offers selected for award, and concluded that the remaining offers, including APL’s, “did not present a sufficient combination of non-price and price attributes to

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<sup>14</sup> The offeror was rated good under the corporate experience factor, excellent under the past performance factor, superior under the program management factor, and satisfactory under the staffing approach factor, and it proposed a price of \$399,028,586.58. AR, Tab 10, SSEB Report, at 63.

<sup>15</sup> The offeror was rated good under the corporate experience factor, excellent under the past performance factor, superior under the program management factor, and good under the staffing approach factor, and it proposed a price of \$473,058,549.80. AR, Tab 10, SSEB Report, at 63.

be considered to represent the best value to the government.” AR, Tab 11, Source Selection Decision Memorandum for Reevaluation, at 10. Although APL disagrees with the award decisions, and argues that it is “inconceivable” that its “substantially lower pricing” did not represent the better value, Protest at 23, we have no basis to conclude here that the selection of higher-technically rated/higher-priced offers for award was unreasonable.

The protest is denied.

Susan A. Poling  
General Counsel