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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Swets Information Services

File: B-410078

Date: October 20, 2014

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DIGEST

1. Protest challenging the agency's technical evaluation is sustained where we cannot determine the reasonableness of the evaluation of the vendors' product demonstrations because the evaluation was not adequately documented.

2. Protest challenging the agency's evaluation of one of the vendor's alternatively-quoted products is denied where the agency reasonably concluded that the vendor did not provide information that was accurate and complete, as required by the solicitation.

3. Protest challenging the agency's past performance evaluation is denied where the record shows that there was no prejudice to the protester as a result of the alleged error.

DECISION

Swets Information Services, of Runnemede, New Jersey, protests the issuance of a task order to Cox Subscriptions, Inc., of Shallotte, North Carolina, under request for quotations (RFQ) No. VA257-14-Q-0933, issued by the Department of Veterans Affairs (VA) for subscription services to a brand name or equal, online, searchable, pharmaceutical information database. Swets argues that the agency's evaluation of its quotations offering two alternative databases, and the resulting award decision, were improper.

We sustain the protest in part and deny it in part.

BACKGROUND

The RFQ was issued on May 5, 2014, to holders of VA Library Network basic ordering agreements (BOA) pursuant to Federal Acquisition Regulation (FAR) subpart 16.7. The solicitation contemplated the issuance of a fixed-price task order for a base year with four 1-year options for online web access to a cross-searchable, evidence-based medication, toxicology, and patient education database, to be used by VA staff at Veterans Integration Service Network (VISN) 17 area facilities. RFQ at 4, 6; Agency Report (AR), Aug. 11, 2014, at 1. In general terms the database was to provide drug information, dosing and therapeutic tools, and drug identification to assist VA staff in providing safe and effective care to veterans.[1] RFQ at 4. Additionally, the solicitation required vendors to quote the Micromedex Pharmaceutical Knowledge database or its equal, and listed 25 salient characteristics of any "equal" product.[2] RFQ at 6-8.

The RFQ established that task order issuance would be made on a "best value" basis, based on three evaluation factors in descending order of importance: technical capability, price, and past performance. RFQ at 21-22. The technical capability factor listed four subfactors: access to comprehensive databases; ease and efficacy of use; compliance with salient characteristics; and immediate 24/7 online access for multiple simultaneous users. Id. at 22. The nonprice factors, when combined, were more important than price. Id.

As relevant here, the RFQ established that the agency would assess a vendor's technical capability through a product demonstration. Id. The solicitation detailed how the agency's product demonstration was to be conducted. Specifically, a vendor representative was to demonstrate the use of the database product to the agency evaluators by locating 15 specific drug information items (labeled "a" through "o") as set forth in the solicitation. Id. at 23-24. For example, demonstration item "h" required vendors to "[s]how renal dosing options for IV ciprofloxacin for a patient with a [creatinine clearance rate] CrCl of 10 [milliliters] mL/min[ute] that is not on hemodialysis and provide references to support the recommendations." Id. at 23. The RFQ also established that each vendor's product

[1] The database was required to include: comprehensive medication monographs; pharmaceutical product identification; intravenous (IV) compatibility tools; toxicology/poison control management; patient education materials; drug interaction tools; medication dosage and laboratory calculators; material safety data sheets; and teratogenic medications database. RFQ at 4.

[2] As set forth in FAR § 11.104, agencies may define their requirements in "brand name or equal" terms, and the purpose of the statement of salient characteristics is to define the minimum characteristics of the brand name product that an alternative equal product must meet.

demonstration would "be evaluated on their ability to reach the desired information with accuracy, completeness and with the least number of screen selections."[3] Id. at 22; AR, Aug. 11, 2014, at 3. A vendor's ability to accurately and completely reach the desired information was to be evaluated on a "yes/no" basis,[4] while an adjectival rating scheme was to be used regarding the number of screen selections it took to reach the required information as follows: exceptional (1-2 screen selections); satisfactory (3-5 screen selections); or unsatisfactory (6 or more screen selections). RFQ at 23-24.

Both Cox and Swets submitted quotations by the May 23 closing date. Cox's quote was based on providing the Micromedex database product, while Swets submitted one quotation offering the Lexi-Comp Online Knowledge database product, and an alternate quotation offering the Facts & Comparison eAnswers (F&C) database product.[5] AR, Tab 6, Swets' Quotation, at 2.

The agency conducted product demonstrations with both Cox and Swets. For each of the required demonstration items, three agency evaluators assessed whether the vendor was able to accurately and completely reach the required information, and counted the number of screen selections required. AR, Tab 9, Evaluator Worksheets, May 16, 2014, at 1-30.

The final evaluation ratings and prices of Swets and Cox were as follows:

[3] Throughout the agency report and record, the VA uses the terms "screen selection," "screens," and "clicks" interchangeably. For the purposes of this decision we will use the term screen selections.

[4] The agency, through a solicitation amendment, also clarified that "[i]f rated "No," then [the solution] is not acceptable no matter the number of screens. RFQ amend. 3, Questions and Answers, at Question 5(e).

[5] The RFQ contained FAR clause 52.212-1, Instructions to Offerors--Commercial Items, which encouraged vendors to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of the solicitation. RFQ at 14-15. Swets also offered a third alternative consisting of both its Lexi-Comp and F&C products. AR, Tab 6, Swets' Quotation, at 75. As this third alternative was higher priced than Cox's quotation, Swets does not protest this aspect of the agency's award decision.

	Cox (Micromedex)	Swets (Lexi-Comp)	Swets (F&C)
Technical Capability (screen selections)[6]	5 items: Exceptional/ 10 items: Satisfactory	1 item: Exceptional/ 6 items: Satisfactory/ 7 items: Unsatisfactory[7]	3 items: Exceptional/ 8 items: Satisfactory / 4 items: Unsatisfactory
Past Performance	4 Outstanding references	1 Outstanding reference/ 1 Satisfactory reference	3 Outstanding references/ 1 Satisfactory reference
Price	$471,975	$452,679	$332,420

AR, Tab 10, Source Selection Decision, June 24, 2014, at 2-3.

Additionally, the agency evaluators found that Swets' Lexi-Comp product was "unable to demonstrate requested demonstration factor 'h' [show renal dosing options for IV ciprofloxacin for a patient with a CrCl of 10 mL/min that is not on hemodialysis and provide references to support the recommendations] with accuracy and completeness, thereby rating this portion unfavorable and eliminating this option." Id. at 2.

The contracting officer as source selection authority performed a price/technical tradeoff determination between Cox and Swets.[8] The contracting officer found that Cox's Micromedex database out-performed its competitor by furnishing access to the required information in a more efficient matter. Id. at 3. Specifically, "[b]y furnishing the information with fewer screen clicks, that translates to potentially more timely and efficient delivery of health care services which is VA's primary mission." Id. The contracting officer also concluded that Cox's technical superiority

[6] Although the technical capability factor contained four subfactors, the agency's technical capability ratings were based upon whether the vendor could accurately and completely reach the required information and the number of screen selections. The VA does not dispute that both Swets' Lexi-Comp and F&C products met all of the RFQ's listed salient characteristics.

[7] As explained below, the agency found that the Lexi-Comp database product did not accurately and completely reach the required information for 1 of the 15 items (item "h"). Therefore, the agency did not rate the number of screen selections required to reach the desired information for this item.

[8] Although not entirely clear, the record indicates that the agency's price/technical tradeoff determination was limited to Swets' F&C product offering. Id. at 3.

was worth the price premium as compared to Swets' F&C offering, and that Cox represented the best value to the government. Id.

The VA provided Swets with notice of task order issuance to Cox on June 24, and then provided a written debriefing. This protest followed.

DISCUSSION

Swets' protest raises a number of issues regarding the agency's evaluation and resulting award decision. Swets argues that the VA's technical capability evaluation was unreasonable because it was based on the results of a product demonstration that were inaccurate and undocumented. Swets also argues that the VA's technical evaluation of the Lexi-Comp product was unreasonable and imposed an unstated minimum requirement. Further, the protester contends that the agency's past performance evaluation was unreasonable by failing to attribute certain relevant past performance references to Swets' Lexi-Comp offering. Lastly, Swets argues that the agency's best value determination was flawed and inadequately documented. Protest, July 11, 2014, at 25-37.

We find the agency's technical capability evaluation of the vendors' product demonstrations was unreasonable because it was based upon conclusions that the agency failed to adequately document. We have fully considered all of Swets' other arguments and, although we do not address them all, we find that none provides a basis on which to sustain the protest.

Product Demonstration Evaluation

Swets protests that the VA misevaluated the protester's Lexi-Comp and F&C databases, as presented in the product demonstration. In particular, Swets contends that it demonstrated that both its quoted products reached the RFQ-required information in fewer screen selections than the VA's count. Swets also argues that the agency's evaluation of the number of screen selections required to reach the required information was unreasonable, disparate from how the agency treated Cox, and undocumented. Protest, July 11, 2014, at 30-33.

As explained below, we have been unable to determine from this record how the agency's evaluators reached the number of screen selections for each of Swets' databases at the product demonstration. In this regard, the record contains conflicting evidence, statements, and exhibits concerning how the VA conducted its evaluation. As the agency failed to maintain an evaluation record adequate to permit meaningful review, and has failed to rebut persuasive evidence presented by the protester about the number of screen selections required to demonstrate the effectiveness of Swets' alternative databases, we sustain the protest.
Although we recognize that this procurement was conducted as a request for quotations among BOA holders under FAR subpart 16.7, it is a fundamental

principle of government accountability that an agency be able to produce a sufficient record to allow for a meaningful review where its procurement actions are challenged. See Resource Dimensions, LLC, B-404536, Feb. 24, 2011, 2011 CPD ¶ 50 at 6; e-LYNXX Corp., B-292761, Dec. 3, 2003, 2003 CPD ¶ 219 at 8; Checchi & Co. Consulting, Inc., B-285777, Oct. 10, 2000, 2001 CPD ¶ 132 at 6. An agency which fails to adequately document the rationale for its source selection, bears the risk that its determinations will be considered unsupported, and that absent such support, our Office may lack a basis to find that the agency had a reasonable basis for its determinations. Tiger Enters., Inc., B-293951, July 26, 2004, 2004 CPD ¶ 141 at 2. In reviewing an agency's procurement actions, we do not limit our review to contemporaneous evidence but consider, as appropriate, hearing testimony and the parties' arguments and explanations. See Southwestern Marine, Inc.; Am. Sys. Eng'g Corp., B-265865.3, B-265865.4, Jan. 23, 1996, 96-1 CPD ¶ 56 at 10.

As detailed above, the solicitation established that the VA would use a product demonstration as the primary means for determining the technical merit of each vendor's offering(s), and that the agency's evaluation would be based on, among other things, the number of screen selections required to reach the desired information. RFQ at 22-24. When conducting the product demonstration, the agency evaluators and vendor representatives were not in the same physical location; rather, the demonstrations were conducted using screen-sharing software (e.g., "GoToMeeting," or "WebJoin"). AR, Tab 13, Declaration of VA Demonstration Facilitator, Oct. 1, 2014, at 1. A separate audio line was also established so that the agency evaluators and vendors could communicate during the demonstration. Id. For each of the required product demonstration items, the agency evaluators instructed the vendor representatives to start from the "home screen" and navigate to the screen containing the required information. Id.

A Swets representative demonstrated the ability of the Lexi-Comp and F&C products to search for and reach the information required for each of the demonstration items. Protest, July 11, 2014, Declaration of Swets Government Contracts Director, July 11, 2014, at 3. The Swets representative states that, after navigating to the required information, he orally confirmed to the VA evaluators his count of the number of screen selections required (he also stated that the VA evaluators did not dispute his count). Id.

In contrast to Swets' claim, the agency evaluators state that there was no verbal counting of screen selections by the Swets product representative. AR, Tab 12, Declaration of VA Evaluator J.N., July 28, 2014. The VA and Swets agree, however, that the agency evaluators did not state their count of the number of

screen selections that it took in each instance to reach the required information.[9] Protest, July 11, 2014, Declaration of Swets Government Contracts Director, July 11, 2014, at 3.

The VA evaluators kept worksheets of their product demonstration observations, including the total count of the number of screen selections for each of the 15 items that were researched during the demonstration. In most instances the agency evaluators agreed with each other about the number of screen selections needed to reach the desired information for each of the required items. AR, Tab 9, Evaluator Worksheets, May 16, 2014, at 1-30. However, for the Lexi-Comp database product, item "c" ("[s]how the mechanism of action for montelukast and provide references"), two of the evaluators counted six screens, while the third evaluator counted four to six screens. Id. at 11, 14, 17.

Swets asserts that the agency's evaluation of Swets' screen selections was inaccurate and unreasonably high. The protester also asserts that the agency's evaluation of screen selections was unequal. In support of its allegations, the protester provided a declaration from the representative who conducted the product demonstration. The vendor representative states "I have used the screen/click counting methodology [the VA] claims to have used to calculate the number of screen selections/clicks required for both Lexi-Comp and F&C to access the information required by the evaluation factors, and the results of my calculations . . . establish that the screen counts reported by the [agency] evaluators were inaccurate and were higher than warranted." Protest, Aug. 21, 2014, Declaration of Swets Government Contracts Director, Aug. 21, 2014, at 1-2.

To document his attempt at replicating the agency's evaluation methodology, Swets provided "screen-by-screen," "click-by-click," walkthroughs (sometimes called "screen shots") for each of the different products at issue. For example, with regard to demonstration item "a" ("Compare in table format the contraindications/adverse reactions of warfarin and dabigatran"), Swets showed that four screen selections were necessary for Lexi-Comp to reach the required information, in comparison to the VA's count of seven screen selections.[10] Id., exh. 3, Lexi-Comp Walkthrough for Item "a". Likewise, with regard to demonstration item "j" ("Display in table format the contraindications/adverse reactions of prasugrel and ticagrelor"), Swets showed that Lexi-Comp and F&C each required four screen selections in comparison to the VA's count of eight and six screen selections, respectively. Id., exh. 6, Lexi-Comp

[9] The Swets representative states that had the evaluators done so, he would have asked for an explanation as to how they had arrived at each determination. Id.

[10] Swets provided a similar walkthrough for this item for the F&C product. This walkthrough also showed four screens as compared to the VA count of seven screens. Id., exh. 4, Walkthrough for F&C for Item "a".

Walkthrough for Item "j"; exh. 7, F&C Walkthrough for Item "j". Swets also provided screen-by-screen walkthroughs for demonstration item "c" for Lexi-Comp (three screen selections as compared to the VA's count of six screen selections), and for demonstration item "l" for F&C (three screen selections as compared to the VA's count of six screen selections). Id., exh. 11, Lexi-Comp Walkthrough for Item "c"; exh. 12, F&C Walkthrough for Item "l".[11] Swets declares that for all demonstration items, its total Lexi-Comp screen selection count is 52 as compared to the VA total screen selection count of 74, and that its F&C screen selection count is 51 as compared to the VA's count of 61. Id., exh. 1, Screen Counts for Lexi-Comp and F&C (Swets Count vs. VA Count).

In response, the VA asserts that its evaluation was reasonable and consistent with the solicitation, and that its counting standards were consistently applied to all product demonstrations. The agency argues that the evaluators agreed to the methodology for counting screen selections prior to conducting the product demonstrations. In this regard, the agency states, in its response to the protest, that the evaluators counted the number of screen selections as each screen was being clicked on and counted transitioning to the next screen, which included all drop-down menus and sub-menus.[12] Contracting Officer's Statement, Aug. 11, 2014, at 4; AR, Tab 12, Declaration of VA Evaluator J.N., July 28, 2014, at 1. Thus, the agency asserts that the evaluators accurately counted vendors' screen selections based on this established methodology.[13]

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[11] For purposes of comparison, Swets also provided similar walkthroughs for the Cox product--Micromedex. Id., exh. 2, Walkthrough for Micromedex for Item "f"; Exh. 5, Walkthrough for Micromedex for Item "a"; exh. 10, Walkthrough for Micromedex for Item "b". With regard to item "b", Swets showed that Micromedex required seven screen selections in comparison to the VA's count of five screen selections. Id.

[12] The record is unclear, however, whether hovering over an item, such as a drop-down menu, was counted in the same way as clicking on the item.

[13] In response to the protester's comments, in an attempt to explain some of the disparities in screen selection counts, the agency provided a statement from the product demonstration facilitator (but not from the evaluators) evidencing a second counting methodology for drug comparison items. AR, Oct. 1, 2014, at 4. That is, when a drug name is typed into a field, "an action must be taken to accept that drug name." AR, Tab 13, Declaration of VA Demonstration Facilitator, Oct. 1, 2014, at 2. "Using the keyboard 'Enter' key changes the screen as the drug name moves from the 'Drug[]' box to the 'Search Criteria' box and would therefore need to be counted as an additional screen." Id. Thus, the agency essentially creates a new set of screen counts by counting various keystrokes that did not result in a new screen but moved information between fields on an existing screen. Moreover, Swets showed that the Lexi-Comp, F&C, and Micromedex all operate identically in this regard and

(continued...)

On this record, we cannot find that the agency's documentation in regard to its screen selection counts is sufficient to allow us to review the reasonableness of the agency's evaluation. The contemporaneous evaluation record consists of the evaluator worksheets which provide only the total screen selection counts. The documents subsequently submitted by the agency provide some additional information regarding the agency's methodology, but provide no contemporaneous documentation of how the agency reached the screen selection count that it did in each instance.

In addition, the agency's statements during the course of the protest have not been consistent about the methodology used by the evaluators. In sum, the agency essentially argues that it treated all vendors equally as to its screen selection counting, but it has no record to support the validity of its count, other than the worksheets showing the total count. In contrast, Swets has provided detailed, screen-by-screen walkthroughs of the Lexi-Comp's and F&C's products in support of its assertion that the agency's screen selection counts are inaccurate. In light of the contrary information provided by the protester, the agency evaluator worksheets that document only evaluation results are not sufficient to demonstrate the reasonableness of the agency's evaluation.[14] In sum, we cannot find the agency's evaluation results to be reasonable because the agency has not adequately documented the record on which its screen count results are based.[15]

Unacceptability Determination of Lexi-Comp

(...continued)
should have received identical screen selection counts but did not. Protest, Aug. 21, 2014, Declaration of Swets Government Contracts Director, Aug. 21, 2014, at 3; exh. 3, Lexi-Comp Walkthrough for item "a", exh. 4, F&C Walkthrough for Item "a"' exh. 5, Micromedex Walkthrough for item "a"; AR, Tab 9, Evaluator Worksheets, May 16, 2014, at 1-30.

[14] As such, we find our decision in John Carlo, Inc., B-289202, Jan. 23, 2002, 2002 CPD ¶ 23 at 8, which the agency argues should control here, to be distinguishable. In John Carlo, the protester did not submit to our Office any contemporaneous evidence of the content of its oral presentation, or otherwise demonstrate any prejudicial disagreement between the parties as to what was said or demonstrated during the presentation.

[15] The agency also argues that its technical evaluation was based on more than screen selection counts, and that the evaluators fully documented the ease of use of the competing database products. AR, Oct. 1, 2014, at 3. The record reflects, however, that the source selection authority's decision finding Cox to be the best value focused entirely on number of screen selections. AR, Tab 10, Source Selection Decision, June 24, 2014, at 3.

Swets also protests the VA's technical capability evaluation of its Lexi-Comp database product offering. Specifically, the protester argues that the VA's finding that Lexi-Comp failed to provide the required "references" for the IV dosing options for ciprofloxacin was unreasonable, factually inaccurate, and imposed an unstated minimum requirement. Protest, July 11, 2014, at 26-30.

The evaluation of quotations in a task order competition, including the determination of the relative merits of quotations, is primarily a matter within the contracting agency's discretion, since the agency is responsible for defining its needs and the best method of accommodating them. Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 6; Optimal Solutions & Techs., B-407467, B-407467.2, Jan. 4, 2013, 2013 CPD ¶ 20 at 6. Our Office will review evaluation challenges to task order procurements to ensure that the competition was conducted in accordance with the solicitation and applicable procurement laws and regulations. Logis-Tech, Inc., B-407687, Jan. 24, 2013, 2013 CPD ¶ 41 at 5; Bay Area Travel, Inc., et al., B-400442 et al., Nov. 5, 2008, 2009 CPD ¶ 65 at 9. A protester's mere disagreement with the agency's judgment is not sufficient to establish that an agency acted unreasonably. STG, Inc., B-405101.3 et al., Jan. 12, 2012, 2012 CPD ¶ 48 at 7.

As set forth above, product demonstration item "h" required vendors to "[s]how renal dosing options for IV ciprofloxacin for a patient with a [creatinine clearance rate] CrCl of 10 [milliliters] mL/min[ute] that is not on hemodialysis and provide references to support the recommendations." RFQ at 23. During the Lexi-Comp product demonstration, the Swets' representative navigated to the Lexi-Comp web page which contained the ciprofloxacin dosing information.[16] At the top of the web page was a heading stating "Manufacturer's recommendations," under which were sub-headings for "Oral, immediate release," "Oral, extended release," and "I.V." Id. In turn, under each subheading, the web page contained the recommended ciprofloxacin dosing amounts depending on various CrCl rates. For example, relevant to the protest here, under the IV sub-heading was a line stating, "CrCl 5-29 mL/minute: 200-400 mg every 18-24 hours." Id. Further down, the Lexi-Comp web page also contained a listing of "Alternate recommendations" together with the reference source (e.g., medical study) for each alternate recommendation. For example, the web page stated, "CrCl 10-50 mL/minute: Administer 50% to 75% of usual dose every 12 hours (Aronoff, 2007)." Id.

During the product demonstration the agency evaluators asked the Swets' representative for the source of the primary dosing recommendations. The Swets

[16] Swets submitted a screen shot of the web page in question as part of its protest. Protest, July 11, 2014, exh. 6, Screenshot of Lexi-Comp Information (Ciprofloxacin).

representative stated that the "package insert"[17] was the reference for the standard dosing options. AR, Tab 9, Evaluator Worksheets, May 16, 2014, at 19; Protest, July 11, 2014, Declaration of Swets Government Contracts Director, July 11, 2014, at 3. The agency evaluators found that while Lexi-Comp provided references for the alternate dosing options, the product failed to provide--with accuracy and completeness--references for the primary dosing recommendations. AR, Tab 9, Evaluator Worksheets, May 16, 2014, at 12, 15, 19 ("[v]erbally said that the package insert was the reference for standard dosing, though no hyperlink or reference listed in the monograph"). Based on the determination that Lexi-Comp failed to reach all required information for this product, the VA evaluators concluded that the Lexi-Comp alternative product was technically unacceptable. AR, Tab 10, Source Selection Decision, June 24, 2014, at 2.

Swets argues that the agency's evaluation of its Lexi-Comp product was unreasonable and inaccurate.[18] The protester contends that, as shown from the screenshot of the applicable web page, a reference was in fact provided for the primary dosing recommendations: the drug manufacturer itself. The protester also argues that apparent agency demand for an express citation to the "package insert" was unreasonable (i.e., it is redundant of the "Manufacturer's recommendations" already contained on the web page) and amounts to an unstated minimum requirement. Protest, July 11, 2014, at 26-30.

The agency contends that its evaluation of Swets' Lexi-Comp product offering was reasonable. The agency points to the fact that while Lexi-Comp provided clear references for the alternative dosing recommendations, no similar information was provided for the primary dosing recommendations. AR, Aug. 11, 2014, at 5. The agency also contends that although the section heading was titled "Manufacturer's recommendations," it was unclear where the information is derived from, or if all the information was from the same source. Id. As the Lexi-Comp web page did not display the supporting references for the required ciprofloxacin dosing options with

[17] A drug manufacturer's recommendations regarding the use and administration of pharmaceuticals are included in a "package insert," which is the paper document placed by the manufacturer in the pharmaceutical's packaging. Protest, July 11, 2014, Declaration of Swets Government Contracts Director, July 11, 2014, at 4.

[18] The protester also argues that the VA conducted a "bastardized" procurement by imposing a technical evaluation requirement (i.e., reaching desired information, including supporting references, with accuracy and completeness) that exceeded the RFQ's "brand name or equal" salient characteristics. Protest, Aug. 21, 2014, at 2-10. We find this challenge to the agency's evaluation approach to be untimely at this juncture as the RFQ on its face clearly stated how vendors' technical capabilities (to include product demonstrations) would be evaluated. See 4 C.F.R. § 21.2(a)(1) (2014).

accuracy and completeness, the agency argues, the evaluators finding was a reasonable one. Id.

Although a close call, we find the agency's evaluation here to be reasonable. The solicitation expressly required the database product to both show the applicable ciprofloxacin dosing options and to provide, with accuracy and completeness, "references to support the recommendations." RFQ at 23. The Lexi-Comp web page shows that the reference provided in support of the primary dosing options was limited to "Manufacturer's recommendations."[19] The evaluators reasonably found this information to be vague and incomplete, and asked the Swets representative for clarification during the product demonstration. The vendor representative explained that the supporting reference was the drug manufacturer, and that the dosing recommendations had been taken from the manufacturer's package insert. The evaluators then reasonably determined that the information provided on the Lexi-Comp web page itself was insufficient to clearly denote the supporting reference. While the solicitation did not require an express citation to a drug manufacturer's package insert, it did mandate (for the demonstration item in question here) that both the drug recommendations and supporting references be accurate and complete. As the Lexi-Comp supporting references were found to be incomplete, and in need of external amplification, the VA's finding of technical unacceptability was not unreasonable.

Past Performance Evaluation of Swets

Swets also protests the agency's past performance evaluation. Specifically, the protester argues that although four past performance references were furnished to the VA regarding Swets' Lexi-Comp product offering, the agency improperly failed to take all such references into account as part of its evaluation. Protest, July 11, 2014, at 33-34; Protest, Aug. 21, 2014, at 20-23.

In reviewing a protest challenging an agency's past performance evaluation, we will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Ostrom Painting & Sandblasting, Inc., B-285244, July 18, 2000, 2000 CPD ¶ 132 at 4. A protester's disagreement with an agency's past performance evaluation provides no basis to question the reasonableness of the evaluator's judgments. Citywide Managing Servs. of Port Washington, Inc., B-281287.12, B-281287.13, Nov. 15, 2000, 2001 CPD ¶ 6 at 10-11.

[19] Also, as the agency evaluators noted when performing their evaluation, the Lexi-Comp product did not provide a hyperlink here to an actual source document. AR, Tab 9, Evaluator Worksheets, May 16, 2014, at 19.

The RFQ required vendors to provide at least two past performance references for successfully completed contracts that demonstrated previous work experience providing electronic medical reference database subscriptions. RFQ at 24. The RFQ also contained the questionnaire that past performance references were to complete and return to the agency for evaluation. Id. at 25-26. The solicitation established that the agency would evaluate vendors' past performance to assess the relative risks associated with a vendor's likelihood of success in performing the solicitation's requirements. Id.

Swets' quotation included a discussion of its past performance as related to its alternate product offerings. Swets detailed that the Lexi-Comp product was being used by the VA at VISN 12 and 21 area locations, and that the alternate F&C product was being used at the VA National Consolidated Mail Outpatient Pharmacy (CMOP) and the VISN 20 area location. AR, Tab 6, Swets' Quotation, at 48-49, 74. Moreover, Swets' quotation set forth that the vendor was the subscription services provider generally for the Centers for Disease Control and Prevention (CDC) and the National Cancer Institute (NCI).[20] Id. at 4.

The VA received six past performance questionnaires regarding Swets. Id., Tab 8, Swets' Past Performance References, at 1-19. Two of the references (VISN 12 and VISN 21) indicated that they related to Swets' Lexi-Comp offering. Id. at 1-7. Two of the past performance references (CMOP and VISN 20) indicated that they related to Swets' F&C offering. Id. at 8-13. The last two Swets' references (CDC and NCI) indicated that the information related to Swets, but did not specify a particular database product.[21] Id. at 15-19. The contracting officer considered the CDC and NCI references as part of Swets' F&C quotation, but not as part of Swets' Lexi-Comp quotation.[22] AR, Tab 10, Source Selection Decision, June 24, 2014, at 3; Protest, July 11, 2014, exh. 2, Swets Debriefing, July 1, 2014, at 2. The record contains no explanation as to why the contracting officer attributed the CDC and NCI references to only Swets' F&C quotation.[23]

[20] These instances of prior work did not involve either the Lexi-Comp or F&C products. Swets Email to GAO, Oct. 8, 2014.

[21] The CDC reference rated Swets as satisfactory and the NCI reference rated Swets as outstanding. AR, Tab 8, Swets' Past Performance References, at 15-19.

[22] The contracting officer did not seek clarification from either the past performance references or Swets before making this determination.

[23] Neither the agency's contemporaneous evaluation record nor the post-award debriefing provides any explanation as to why the contracting officer attributed the CDC and NCI references to Swets' F&C offering. See AR Tab 10, Source Selection Decision, June 24, 2014, at 2.

The protester argues that the agency's past performance evaluation was unreasonable because the contracting officer's decision to attribute the references only to Swets' F&C product offering was arbitrary. Swets maintains that because the CDC and NCI references related to Swets generally, they should have been considered towards both Swets' quotations. Protest, Aug. 21, 2014, at 22.

The agency argues that the contracting officer's decision to attribute the unclear reference to Swets' F&C product "was a reasonable conclusion based on the lack of information given." AR, Aug. 11, 2014, at 8. The agency also argues that Swets was in control of the past performance information contained in its quotation, and that Swets bears the burden of submitting an adequately written quotation. The VA does not dispute, however, that Swets' past performance questionnaires here came from the references who completed them, and not from Swets.

We need not decide whether the agency's evaluation of Swets' past performance was unreasonable because we find that Swets was not prejudiced by any such error. Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. Lockheed Martin Integrated Sys., Inc., B-408134.3, B-408134.5, July 3, 2013, 2013 CPD ¶ 169 at 8; see Statistica, Inc. v. Christopher, 102 F.3d 1577 (Fed. Cir. 1996).

Here, even if the agency had taken the CDC and NCI references into account when evaluating Swets' Lexi-Comp quotation, the vendor would then have received two outstanding ratings and two satisfactory ratings, rather than one outstanding and one satisfactory. Moreover, the record indicates that the agency did not consider past performance to be a discriminator between the vendors' quotations when making its best value determination. In any event, as explained above, the agency reasonably found Swets' Lexi-Comp database technically unacceptable; as such, Swets would not have a substantial chance of receiving an award with the Lexi-Comp product. Swets has failed to demonstrate that it was prejudiced by the alleged past performance evaluation error.

Best Value Determination

Last, Swets challenges the agency's best value award decision. Specifically, the protester argues that the price/technical tradeoff determination was flawed because it rests on an unreasonable technical evaluation and because it is based on unreasonable and unsupported assumptions.[24] The protester also alleges that the

[24] Among other things, Swets challenges the agency's conclusion that fewer screen selections translates into more timely and efficient medical care to veterans. To the extent the protester is challenging the agency's use of screen selection counts as (continued...)

VA failed to adequately document its price/technical tradeoff determination. Swets points to the fact that there was a $139,555, or 42%, price premium associated with the Cox quotation, in relation to Swets' F&C database, which, the protester alleges, the VA failed to meaningfully consider. Protest, July 11, 2014, at 34-37; Protest, Aug. 21, 2014, at 23-28. However, as explained below, in light of our recommendation that the agency reevaluate vendors' technical quotations and make a new award decision, we need not review whether the agency's best value decision here was proper.

RECOMMENDATION

In sum, we find the agency's product demonstration evaluation was unreasonable because it was based on conclusions that the agency failed to adequately document. We recommend that the agency reevaluate the Cox and Swets' F&C product demonstrations and make a new source selection decision.[25] If Swets' quotation is determined to be the best value to the government, the agency should terminate Cox's task order and issue the task order to Swets. We also recommend that Swets be reimbursed the costs of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). Swets should submit its certified claim for costs, detailing the time expended and costs incurred, directly to the contracting agency within 60 days after receipt of this decision. Id., § 21.8(f)(1).

The protest is sustained in part and denied in part.

Susan A. Poling
General Counsel

(...continued)
the measure of vendors' technical capabilities, we find this challenge to be untimely. 4 C.F.R. § 21.2(a)(1).

[25] As explained above, we find that the agency properly determined Swets' Lexi-Comp offering to be unacceptable. Thus, our recommendation does not include the reevaluation of Swets' Lexi-Comp database.