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**Comptroller General
of the United States**

**United States Government Accountability Office
Washington, DC 20548**

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Decision

Matter of: CSR, Inc.

File: B-413973; B-413973.2

Date: January 13, 2017

Gunjan R. Talati, Esq., Christian F. Henel, Esq., and Reginald A. Williamson, Esq., Kilpatrick Townsend & Stockton LLP, and Samuel J. Banks, Esq., and Richard D. Kelley, Esq., Bean, Kinney & Korman, PC, for the protester.

Jonathan D. Shaffer, Esq., Mary Pat Buckenmeyer, Esq., and Sean K. Griffin, Esq., Smith Pachter McWhorter PLC, for Booz Allen Hamilton, Inc., an intervenor.

Jason P. Cooley, Esq., Joel H. Feil, Esq., and Rhonda M. Craig, Esq., Department of Justice, for the agency.

Louis A. Chiarella, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's past performance evaluation is sustained where the record reflects that the agency engaged in disparate treatment of vendors' past performance.
 2. Protest challenging the agency's technical evaluation of the protester's quotation is denied where the agency's evaluation was reasonable, consistent with the solicitation, and adequately documented.
 3. Protest challenging the agency's best-value tradeoff decision is sustained where the agency failed to adequately document how it found the awardee's corporate experience to be superior to that of the protester, where the vendors were equally rated.
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DECISION

CSR, Inc., of Arlington, Virginia, protests the issuance of a blanket purchase agreement (BPA) to Booz Allen Hamilton, Inc. (BAH), of McLean, Virginia, under BAH's General Services Administration (GSA) Federal Supply Schedule (FSS) contract, pursuant to request for quotations (RFQ) No. DJO-BJA-16-Q-0092, issued by the Department of Justice (DOJ) for performance measurement tool (PMT)

services. CSR argues that the agency's evaluation of vendors' quotations and resulting selection decision were flawed.

We sustain the protest.

BACKGROUND

The Office of Justice Programs (OJP), a component of DOJ, is responsible for providing information and federal funding (principally through the award of grants) to federal, state, local, and tribal agencies on criminal justice, juvenile justice, and victims matters. Contracting Officer's Statement (COS), Nov. 7, 2016, at 1. In order to achieve its missions, OJP developed the PMT statement of work (SOW) to gain assistance with grant-related performance measurement processes, including: deciding on what should be measured and how to measure it; identifying and collecting data for those measures; making the data available to those who will analyze it; analyzing and summarizing data; communicating analysis findings; interpreting analysis findings so implications are understood; and using the analysis findings to decide what actions to take to improve performance. Id.; RFQ at 8.¹

The RFQ was issued on June 24, 2016, pursuant to the procedures of Federal Acquisition Regulation (FAR) subpart 8.4, and was limited to vendors who had contracts under GSA FSS No. 874 (Professional Services Schedule).² The solicitation contemplated the issuance of a BPA for a base year with four 1-year options against the successful vendor's FSS contract, and that time and materials-type task orders (referred to as "calls") would be placed as needed under the BPA.³ RFQ at 5-7; RFQ amend. 1, Questions and Answers, at 103. In general terms, the solicitation required the awardee to provide qualified personnel to perform the specified SOW tasks. RFQ at 9. The RFQ established that the selection decision would be made on a best-value basis, based on eight evaluation factors: technical understanding and approach (technical approach), key personnel and professional staff (key personnel), corporate experience, quality control, management approach, transition plan, past performance, and price. Id. at 26. The solicitation stated that the nonprice factors were in descending order of importance, and that "all technical factors are more important than price."⁴ Id.

¹ Citations to pages in the record are to the Bates-numbered pages provided by the agency in its report to our Office.

² The solicitation was subsequently amended two times. Unless stated otherwise, all references are to the final version of the solicitation.

³ The RFQ also stated that the first three task orders would be issued to the successful vendor concurrently with establishment of the BPA. RFQ at 24.

⁴ The solicitation was ambiguous about whether the nonprice evaluation factors were each, or collectively, more important than price.

Four vendors, including BAH and incumbent CSR, submitted quotations by the August 9 closing date. An agency technical evaluation board (TEB) assessed vendors' quotations under the non-price evaluation factors using an adjectival rating scheme that was set forth in the solicitation: exceptional, acceptable, marginal, unacceptable, and with regard to past performance, neutral. By September 21, the TEB completed its review. The final evaluation ratings and prices of the BAH and CSR quotations as follows:

	BAH	CSR
Technical Understanding	Exceptional	Acceptable
Key Personnel	Acceptable	Acceptable
Corporate Experience	Exceptional	Exceptional
Quality Control	Exceptional	Acceptable
Management Approach	Acceptable	Acceptable
Transition Plan	Acceptable	Acceptable
Past Performance	Exceptional	Acceptable
Overall	Exceptional	Acceptable
Evaluated Price ⁵	\$25,553,592	\$21,909,018

AR, Tab 14, TEB Report, at 629; Tab 15, Price Analysis Report, at 697-98.

The TEB also made narrative findings in support of the assigned ratings. For example, under the technical understanding and approach factor, the agency evaluators identified 8 strengths and no weaknesses in BAH's quotation, and

⁵ In a labor-hour contract or task order, a contractor is reimbursed its actual direct labor hours at specified fixed hourly rates. FAR § 16.601(b)(1). While the RFQ established that only labor-hour (*i.e.*, time and materials) task orders would be issued under the BPA, and required vendors to submit fully-burdened labor rates for mandatory labor categories, the solicitation did not specify the number of labor hours that vendors were to use in their quotations. Consequently, vendors' prices for the first three task orders were based on contractually-binding labor rates and a nonbinding number of labor hours--which differed substantially between vendors (*e.g.*, BAH quoted a total of 244,425 hours while CSR quoted a total of 196,700 hours). Agency Report (AR), Tab 16, Source Selection Decision, at 707. Although it is uncertain whether DOJ meaningfully considered cost to the government of the competing quotations as required by the Competition in Contracting Act, 41 U.S.C. § 3306(c)(1)(B), and while DOJ does not appear to have performed an "apples to apples" comparison of vendors' labor rates (the only binding aspect of vendors' price submissions), the issue was not raised in this protest.

12 strengths and 6 weaknesses in CSR's quotation. AR, Tab 14, TEB Report, at 630-31, 636-38. The TEB was also of the opinion that BAH's technical advantages outweighed the associated cost premium to the government. Id. at 636.

The agency source selection authority (SSA) thereafter reviewed and accepted the TEB's evaluation findings and ratings. AR, Tab 16, Source Selection Decision, at 702-05. The SSA determined that BAH's advantages under the technical understanding, corporate experience, key personnel, and past performance factors outweighed CSR's price advantage, and concluded that BAH's quotation therefore represented the best value to the government all factors considered. Id. at 708-09.

The agency thereafter issued the BPA (and initial task orders) to BAH on September 28. After providing CSR with notice of BAH's selection, and a brief explanation, this protest followed.

DISCUSSION

CSR raises several issues with the agency's evaluation of its quotation as well as the resulting selection decision. The protester contends that the agency's evaluation of its past performance was unreasonable and disparate. CSR also challenges the evaluation of its quotation under every other nonprice evaluation factor where it did not receive an exceptional rating--technical understanding, key personnel, quality control, management approach, and transition plan.⁶ Lastly, CSR argues that the agency's best-value tradeoff decision was improper because it was inadequately documented.⁷

We find the agency's evaluation of CSR's quotation under the past performance factor was unreasonable, and that the agency failed to adequately document its best-value tradeoff decision. Although we do not specifically address all of CSR's remaining issues and arguments, we have fully considered all of them and find they do not provide additional bases on which to sustain the protest.

⁶ The protester does not, however, dispute the agency's evaluation of BAH's quotation in any regard.

⁷ CSR also protested that the agency: (1) failed to evaluate vendors' prices; (2) did not reasonably assess BAH's alleged organizational conflict of interest; and (3) improperly applied undue weight to technical innovation in its evaluation. Protest at 20-23; Supp. Protest at 4-5. CSR subsequently elected to withdraw these aspects of its protest. CSR Letter to GAO, Dec. 22, 2016.

Past Performance Evaluation of CSR

CSR protests the agency's evaluation of its past performance. Specifically, the protester contends that the agency unreasonably failed to consider all available assessment reports when assessing the quality of its past performance. CSR also alleges that the agency's evaluation of its past performance was disparate from how the agency treated BAH. CSR argues that had the agency performed a proper evaluation, it would have received an "exceptional" past performance rating, equal to that of BAH (on which the agency relied when making its best-value decision). As detailed below, we find the agency's evaluation of CSR's past performance was unreasonable because it was unequal with how the agency treated BAH.

In reviewing a protester's challenge to an agency's evaluation of vendors' past performance, our Office does not independently evaluate quotations; rather, we review the agency's evaluation to ensure that it is reasonable and consistent with the terms of the solicitation and applicable statutes and regulations. Castro & Co., LLC, B-412398, Jan. 29, 2016, 2016 CPD ¶ 52 at 8; SOS Int'l, Ltd., B-402558.3, B-402558.9, June 3, 2010, 2010 CPD ¶ 131 at 2. An agency's determination of the relevance or merit of a vendor's performance history is a matter within the discretion of the contracting agency, which we will not disturb unless the agency's assessments are unreasonable or inconsistent with the solicitation criteria. See Rotech Healthcare, Inc., B-413024 et al., Aug. 17, 2016, 2016 CPD ¶ 225 at 3; Logistics Mgmt. Int'l, Inc., et al., B-411015.4 et al., Nov. 20, 2015, 2015 CPD ¶ 356 at 8. The critical question is whether the evaluation was conducted fairly, reasonably, and in accordance with the solicitation's evaluation scheme. Halbert Constr. Co., Inc., B-413213, Sept. 8, 2016, 2016 CPD ¶ 254 at 8; Al Raha Grp. for Tech. Servs., Inc.; Logistics Mgmt. Int'l, Inc., B-411015.2, B-411015.3, Apr. 22, 2015, 2015 CPD ¶ 134 at 5. An agency's past performance evaluation is unreasonable where the agency engaged in disparate treatment. Halbert Constr. Co., Inc., supra, at 11.

The RFQ permitted vendors to submit up to nine past performance references, but also limited the length of the past performance submissions as follows: a table not exceeding three pages of required information regarding the vendor's references; and up to four additional pages detailing the scope and relevancy of the references listed. RFQ at 31-32. The solicitation advised vendors that "the Government may use all data provided by the Offeror in this quote and data obtained from other sources, including, but not limited to, other DOJ and OJP contracts and information from Government repositories . . ." Id. at 32. The RFQ also established that the agency would assess both the relevance and quality of each vendor's past performance in order to assess the probability of successful performance. Id.

CSR submitted six past performance references--four for itself and two for proposed subcontractor [DELETED]--using the RFQ-allotted pages. AR, Tab 7, CSR

Quotation, Vol. I, Technical, at 373-79. Three of CSR's references concerned task orders involving PMT services previously performed for DOJ's OJP. Id. at 373-74.

The TEB, when evaluating CSR's past performance, assessed the relevance of the vendor's prior work based on the information provided by CSR in its quotation. AR, Tab 14, TEB Report, at 641. When assessing the quality of CSR's prior work, the evaluators took into account three Contractor Performance Assessment Reports (CPAR) regarding the OJP task orders that CSR had referenced in its quotation.⁸ AR, Tab 9, CSR CPARs, at 573-80. Overall, the TEB found all of CSR's references to be relevant and the quality of the vendor's prior work to be mixed, and rated the protester's past performance as acceptable. AR, Tab 14, TEB Report, at 641.

CSR argues that the agency unreasonably failed to consider other relevant CPARs regarding its past performance, and all involving DOJ. The protester points to two earlier CPARs involving its first referenced OJP task order, as well as a CPARs for another relevant project (*i.e.*, research, evaluation, and performance measurement services) not listed as a reference in its quotation (the three additional CPARs identified by CSR were uniformly of high quality). Protest, exh. 4, CSR CPARs, at 1-11. The protester contends that this additional past performance information was relevant, too "close at hand" for the agency to ignore as part of its evaluation, and would have affected the assigned past performance rating. Supp. Protest, at 9.

The agency asserts that, when retrieving CPARs, it limited its search to only those specific projects that were identified by the vendors in their quotations, and only the most recent CPARs that were available for those projects. COS, Dec. 22, 2016, at 2. As CSR had identified three specific OJP task orders in its quotation, the agency states, the contract specialist pulled only the most recent CPARs for each of those referenced task orders. Id. The agency also states that it did not consider the three other CPARs which CSR points to in its protest because two were older reports for a referenced project, and the other was not considered because it was not among the past performance projects that CSR identified in its quotation. Id.

The record reflects, however, that in conducting its past performance evaluation of BAH, the agency considered CPARs for past performance projects that were not identified in the awardee's quotation. BAH submitted six past performance references for itself and its proposed subcontractors in its quotation. AR, Tab 4, BAH Quotation, Vol. I, Technical, at 189-95. Relevant to the protest here, one of BAH's references was for its law enforcement systems analysis (LESA) project for the Department of Homeland Security, Immigration and Customs Enforcement

⁸ The record reflects that the contract specialist pulled the CPAR reports from the applicable database and provided them to the TEB for evaluation. COS, Dec. 22, 2016, at 2.

(ICE). Id. at 190. BAH's quotation also detailed the relevance of its LESA project to the PMT work to be performed here. Id. at 193-94.

The agency considered three CPARs when evaluating BAH's past performance--two of which concerned projects referenced in the vendor's quotation. AR, Tab 6, BAH CPARS, at 300-312. The third CPARs, however, involved BAH providing support services to ICE at its Pacific Enforcement Response Center (PERC). Id. at 304-06. The record indicates that BAH's LESA project and its PERC support services effort were different task orders issued under the same contract with ICE: in addition to involving different types of work, the projects also had different award dates, performance periods, dollar values, performance locations, and contracting officers. Compare AR, Tab 4, BAH Quotation, Vol. I, Technical, at 190, with AR, Tab 6, BAH CPARS, at 304.

The TEB thereafter found all of the past performance references in BAH's quotation to be relevant, and the CPARs to be uniformly of high quality, and rated the awardee as exceptional. AR, Tab 14, TEB Report, at 635. The record does not indicate that the TEB members, when evaluating BAH's past performance, were aware that one of the CPAR reports on which they based their evaluation of BAH's performance quality was for a project other than the identified references on which they had assessed BAH's past performance relevance. See id.

We have previously found nothing improper in an agency's decision to limit its review of past performance information in various ways. In this regard, an agency has the discretion to determine the scope of the past performance history to be considered, provided all quotations are evaluated on the same basis and the evaluation is consistent with the terms of the solicitation. See Hygeia Solutions Partners, LLC; STG, Inc., B-411459 et al., July 30, 2015, 2015 CPD ¶ 244 at 13; Weidlinger Assocs., Inc., B-299433, B-299433.2, May 7, 2007, 2007 CPD ¶ 91 at 8. Here, however, the record reflects that vendors' past performance history was not evaluated on the same basis, and that the agency engaged in disparate treatment of CSR.

As set forth above, the agency's evaluation of CSR's past performance was based on only the most recent CPARs for those specific projects identified by the vendor in its quotation. However, when evaluating BAH's past performance, the agency considered CPARs for other than the specific projects that BAH had identified in its quotation. Specifically, the PERC support services CPARs at issue here did not involve one of the projects that BAH referenced in its quotation. It was an entirely different project than the LESA effort that BAH had performed for ICE. Quite simply, to the extent that the agency's past performance evaluation of BAH considered CPARs for other than the projects specifically referenced by the awardee in its quotation, the agency was required to do the same when evaluating CSR's past performance. As the agency was required to treat vendors equally and

evaluate past performance evenhandedly, and failed to do so here, the agency's actions were disparate and unreasonable.

The agency does not dispute that BAH's referenced LESA effort and the evaluated PERC effort were different projects, or that its evaluation took into account the CPARs for BAH's PERC project. The agency nonetheless argues that its actions were not unfair or disparate because the referenced and evaluated projects "bore the same contract number," and because "the agency record . . . do[es] not support a conclusion that [the] assessment of work under the same contract number was wholly irrelevant" to the evaluation of BAH's past performance. Memorandum of Law, Jan. 5, 2017, at 2. We find these contentions unconvincing. The fact that the LESA and PERC efforts may have been performed under the same overarching contract vehicle does not alter the fact that they were different projects, and the agency had previously decided that only the CPARs for "the specific projects that were identified by the offerors" in their quotations would be considered.⁹ COS, Dec. 22, 2016, at 2. Furthermore, the agency's assertion that BAH's PERC project was not wholly irrelevant misses the point: if the agency wanted to consider relevant CPARs for other than for the projects referenced for BAH, it was then required to do the same for CSR (or any other vendor). Because the agency failed to consider all available, relevant CPARs when evaluating CSR, it failed to take into account information that may have affected the agency's evaluation rating.

Other Aspects of the Agency's Evaluation of CSR

CSR also challenges the agency's evaluation under the technical approach, key personnel, quality control, management approach, and transition plan factors. We have reviewed these aspects of CSR's protest and find no basis on which to sustain the protest.

For example, CSR protests the agency's evaluation of its technical approach. The RFQ established that the agency would evaluate the extent to which the vendor's submission provides a clear, effective, innovative, and feasible approach to meeting the SOW requirements. RFQ amend. 2, at 128. The TEB identified 12 strengths and 6 weaknesses in CSR's technical approach, and rated it as acceptable.¹⁰ AR, Tab 14, TEB Report, at 636-38. The agency evaluators found, among other things, that much of CSR's quotation narrative described the vendor's current approach,

⁹ Moreover, the CPARs in question did not evaluate BAH's performance under the contract as a whole, but for the specific PERC project effort.

¹⁰ The solicitation established that a quotation found to contain significant strengths and no weaknesses would be rated as exceptional, while a quotation containing strengths that outweighed any existing weaknesses would be rated as acceptable. RFQ at 27.

and offered few innovative or new approaches to address measures development, validation and verification, and training and technical assistance (TTA) services. Id. at 637. CSR contends that some, but not all, of the weaknesses identified in its quotation were unreasonable. CSR also argues the agency evaluators failed to recognize various innovations in the protester's submission (CSR does not, however, assert disparate treatment--i.e., that it proposed innovations similar to those which DOJ recognized as strengths in BAH's quotation).¹¹

We find the agency's evaluation here to be reasonable. First, the record reflects that the TEB did not ignore CSR's alleged innovations, but rather, found that they were minor aspects of a technical quotation that generally maintained the status quo. For example, CSR alleges that one of its innovations was a [DELETED]. Supp. Protest at 6-7. CSR's TTA [DELETED], however, was not even mentioned in the vendor's technical approach quotation, but was instead a part of its quality oversight process and management approach. See AR, Tab 7, CSR Quotation, Vol. I, Technical, at 356, 363-64. It is a vendor's responsibility to submit a well-written quotation for the agency to evaluate, and a vendor that fails to do so runs the risk that its quotation will be evaluated unfavorably. govSolutions, Inc., B-413166.3, Sept. 2, 2016, 2016 CPD ¶ 252 at 3-4; InfoZen, Inc., B-408234 et al., July 23, 2013, 2013 CPD ¶ 211 at 5.

Moreover, notwithstanding any changes to the vendor's organizational structure, the TEB reasonably found that CSR's technical approach quotation contained little discussion about how CSR would improve on its existing TTA activities, or how the vendor would employ TTA to improve data quality and data analysis. AR, Tab 14, TEB Report, at 637; Tab 7, CSR Quotation, Vol. I, Technical, at 329. The record also reflects that even if the challenged weaknesses were removed from CSR's evaluation, the unchallenged weaknesses would still have led to an "acceptable" rating in CSR's technical approach--in accordance with the RFQ's rating scheme.

For example, CSR protests the evaluation of its quotation under the management approach factor. The RFQ instructed vendors to describe their approach to managing the project team and staffing multiple BPA task orders, and established that the agency's evaluation would review how well the vendor's approach delineated staff and demonstrated clear and effective management. RFQ at 30-31. CSR proposed [DELETED] as its subcontractor, and [DELETED]'s primary contribution to the project would be to enhance CSR's pool of criminal justice subject matter experts. AR, Tab 7, CSR Quotation, Vol. I, Technical, at 360, 362. The TEB identified five strengths and one weakness (i.e., [DELETED] was not

¹¹ To the extent that CSR, for the first time, points to additional alleged innovations and enhancements in its technical understanding quotation in its comments, see CSR Comments, Nov. 17, 2016, at 4-6, we find these to be untimely. 4 C.F.R. § 21.2(a)(2).

integrated into the vendor's activities in a substantial way; in general, [DELETED] does not really add staff skills not already possessed by CSR) in CSR's management approach, and rated it as acceptable. AR, Tab 14, TEB Report, at 640.

CSR challenges the assigned weakness, and disputes that CSR failed to integrate [DELETED]'s expertise and role into CSR's management approach. The protester argues that "[a]lthough the TEB was entitled to disagree with how CSR intended to utilize [DELETED] staff, it was not entitled to deny that CSR ever proposed integrating them into its staffing plan" CSR Comments, Nov. 17, 2017, at 13. We find these arguments to be essentially one and the same here: the agency's disagreement regarding how CSR intended to utilize--or not utilize--its [DELETED] staff substantially affected the extent to which the TEB found such subcontractor personnel were effectively integrated into the vendor's approach for managing and staffing the BPA task orders. Quite simply, the agency evaluators reasonably found that although [DELETED] may have had a deep pool of personnel with highly-relevant expertise, CSR's quotation failed to sufficiently demonstrate how [DELETED] would be integrated meaningfully to the project, and this was reasonably part of the management approach evaluation criteria.

For example, CSR disputes the evaluation of its quotation under the quality control evaluation factor. The TEB found two strengths and one weakness (the quotation described past practices rather than what would be new and innovative) in CSR's quotation, and rated it as acceptable. AR Tab 14, TEB Report, at 639-40. The TEB, by contrast, found three strengths in BAH's quality control quotation and rated it as exceptional. *Id.* at 633. The SSA did not mention BAH's quality control in her summary of the vendors' quotations, nor did the SSA place any reliance on BAH's higher-rated quality control when making her price/technical tradeoff decision. AR, Tab 16, Source Selection Decision, at 708-09.

CSR challenges the one assigned weakness, but does not otherwise dispute the agency's evaluation of its quality control quotation. We fail to see how CSR was prejudiced by the agency's evaluation here. Even if the disputed weakness was removed from CSR's quotation and the protester received a higher, "exceptional" rating, it would then have been rated equal to BAH--and BAH's higher-rated quality control was simply not one of the factors on which the SSA relied when making her best-value tradeoff determination.

Best-Value Determination

CSR also protests the agency's subsequent best-value tradeoff determination. The protester argues that, in addition to being based on a faulty underlying evaluation, the agency's selection decision was inadequately documented and thus unreasonable. Specifically, CSR contends that the SSA considered BAH's corporate experience to be a discriminator between the BAH and CSR quotations--

even though the vendors were equally rated under this criterion--but offered no explanation of the basis for this conclusion. We agree.

The TEB, when performing its evaluation, found that BAH had both extensive experience working with OJP specifically, and substantial federal experience generally, and rated the awardee's corporate experience as exceptional. AR, Tab 14, TEB Report, at 632. The agency evaluators found that CSR also had a strong corporate history generally as well as "significant experience with performance measures and working with OJP," and also rated CSR's corporate experience as exceptional.¹² Id. at 639. The TEB identified no comparative advantages in BAH's corporate experience over that of CSR. Id. at 651.

The SSA, when making her tradeoff decision, detailed at length BAH's corporate experience and thereafter concluded that BAH's experience would increase the likelihood of successful performance. AR, Tab 16, Source Selection Decision, at 708. The SSA made no mention of CSR's corporate experience, even though it had received the same "exceptional" rating, and even though the agency evaluators had identified the same kind of strengths. Id. Further, the SSA did not state how she concluded that BAH's corporate experience was superior to that of CSR, but nonetheless considered BAH's corporate experience as a nonprice advantage supporting her best-value tradeoff decision. Id.

CSR argues that the tradeoff decision improperly summarized only BAH's corporate experience, failed to recognize CSR's equivalent corporate experience, and failed to document how BAH was found to be superior to CSR--but then relied upon this presumed discriminator when concluding that BAH's technical advantages outweighed CSR's \$3.6 million (or 16 percent) price advantage.¹³

The BPA competition here was conducted among FSS contract holders pursuant to FAR subpart 8.4. In this regard, where an acquisition conducted pursuant to FAR subpart 8.4 provides for award on a best-value tradeoff basis, it is the function of the source selection authority to perform a price/technical tradeoff to determine whether a quotation's technical superiority is worth its higher price. SoBran, Inc., B-408420, B-408420.2, Sept. 10, 2013, 2013 CPD ¶ 221 at 4; InnovaTech, Inc., B-402415,

¹² In fact, both vendors were found to have strong experience directly related to performance measures, and training and technical assistance for grant recipients and granting organizations. Id. at 632, 639.

¹³ The lack of documentation regarding how the agency had found BAH's corporate experience to be superior to CSR's was discussed in a conference call held by our Office with the parties during the protest. See CSR Comments, Jan. 4, 2017, at 4. Notwithstanding the opportunity to provide additional explanation to our Office on this issue, the agency did not do so. See COS, Dec. 22, 2016, at 1-2; AR, Tab 20, TEB Declaration, Dec. 27, 2016, at 1-5.

Apr. 8, 2010, 2010 CPD ¶ 94 at 6. For FAR subpart 8.4 acquisitions that require a statement of work, such as this one, FAR § 8.405-2(f) specifically requires documentation of the rationale for any tradeoffs made in the selection. This rationale, or source selection decision documentation, must be in sufficient detail to show that it is reasonable. Millennium Corp., Inc., B-412866, B-412866.2, June 14, 2016, 2016 CPD ¶ 168 at 7. An agency that fails to adequately document its source selection decision bears the risk that our Office may be unable to determine whether the decision was proper. See NOVA Corp., B-408046, B-408046.2, June 4, 2013, 2013 CPD ¶ 127 at 5.

Where a cost/technical tradeoff is made, the source selection decision must be documented, and the documentation must include the rationale for any tradeoffs made, including the benefits associated with additional costs. See Crowder Constr. Co., B-411928, Oct. 8, 2015, 2015 CPD ¶ 313 at 10; see also NOVA Corp., *supra*. Although source selection officials may reasonably disagree with the ratings and recommendations of lower-level evaluators, they are nonetheless bound by the fundamental requirement that their independent judgments be reasonable, consistent with the provisions of the solicitation, and adequately documented. IBM U.S. Fed., a division of IBM Corp.; Presidio Networked Solutions, Inc., B-409806 *et al.*, Aug. 15, 2014, 2014 CPD ¶ 241 at 14; Earl Indus., LLC, B-309996, B-309996.4, Nov. 5, 2007, 2007 CPD ¶ 203 at 7. Although quotations with the same adjectival ratings are not necessarily of equal quality, a source selection official's finding that one quotation is technically superior to another, notwithstanding equal ratings, must be adequately documented. See ERC Inc., B-407297, B-407297.2, Nov. 19, 2012, 2012 CPD ¶ 321 at 6-7.

Here, as set forth above, the TEB rated the corporate experience of both BAH and CSR as exceptional based essentially on the same kind of identified strengths. The record reflects that the SSA accepted the evaluators' assessments, and did not perform a separate evaluation. The SSA thereafter found that BAH's technical advantages, including corporate experience, warranted the \$3.6 million price premium. The SSA, however, did not explain how BAH was found to have corporate experience superior to that of CSR when they were rated equally. Having failed to adequately document the basis for her conclusion in this regard, one of the benefits on which the SSA relied in selecting BAH's higher-priced quotation does not appear to have been a benefit at all. We find the agency's best-value determination to be unreasonable because it is inadequately documented.

Prejudice to CSR

Lastly, we turn to DOJ's argument that CSR has not been prejudiced by any errors in the agency's past performance evaluation or otherwise. 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. Innovative Test Asset Solutions, LLC, supra, at 11; DRS C3 Sys., LLC, B-310825, B-310825.2, Feb. 26, 2008, 2008 CPD ¶ 103 at 28; see Statistica, Inc. v. Christopher, 102 F.3d 1577 (Fed. Cir. 1996).

We recognize that the agency's evaluation of BAH under the technical approach factor (the most important nonprice criterion) was unchallenged, and that CSR's protest regarding its own technical approach evaluation was found to be without merit. However, as detailed above, the record shows that the agency's evaluation of CSR's quotation under the past performance factor was flawed, and BAH's perceived past performance advantage was relied on by the SSA when making his price/technical tradeoff decision. Additionally, the agency failed to document how BAH's corporate experience was considered to be superior to that of CSR, given their identical ratings under this factor, and this perceived superiority was cited by the SSA in her tradeoff decision. In light of these deficiencies in the agency's evaluation of vendors' quotations, we cannot determine that BAH's quotation would remain the best value overall, and therefore conclude that the agency's actions here were prejudicial to the protester.

RECOMMENDATION

We recommend that the agency reevaluate CSR's quotation under the past performance factor and, based on that reevaluation, make a new source selection determination. We also recommend that the agency's source selection determination adequately document the basis for any price/technical tradeoff determinations. If, upon reevaluation of quotations, CSR is determined to offer the best value to the government, the agency should terminate BAH's BPA for the convenience of the government and issue the BPA to CSR. We also recommend that CSR be reimbursed the costs of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). CSR 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. 4 C.F.R. § 21.8(f)(1).

The protest is sustained.

Susan A. Poling
General Counsel