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Decision

Matter of: KinetX Aerospace, Inc.
File: B-406798; B-406798.2; B-406798.3
Date: August 21, 2012

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Cynthia Malyszek, Esq., Malyszek & Malyszek, for Vector Planning & Services, Inc., the intervenor.
Cheryl R. Parker, Esq., Department of the Navy, for the agency.
Christina Sklarew, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging an agency's evaluation of technical and cost proposals and selection decision is denied where the record shows that the agency's evaluation and selection decision were reasonable and consistent with the terms of the solicitation.

DECISION

KinetX Aerospace, Inc., of Tempe, Arizona, protests the issuance of a task order to Vector Planning & Services, Inc. (VPSI), of San Diego, California, under request for proposals (RFP) No. N00024-11-R-3347, issued by the Space and Naval Warfare Systems Command (SPAWAR), Department of the Navy, for systems engineering support services.

We deny the protest.

BACKGROUND

The Program Executive Office (PEO) for Space Systems, an office within SPAWAR, is responsible for the development, acquisition, integration, production, launch, test, and operational support of space systems supporting the Department of Defense and other agencies. RFP amend. 3, Performance Work Statement (PWS), at 1. The task order to be issued here follows an earlier order to a large business and is for a full range of engineering support services, including requirements development

and tracking, system performance and other technical analysis, system interface verification and validation, and performance modeling and simulations.¹ PWS at 2. Among other things, these services will support the development of the Mobile User Objective System (MUOS) program, which is the intended next-generation narrowband satellite communication system that will replace the agency's current constellation of satellites. Id. at 1.

The RFP, which the Navy issued to small business holders of SeaPort-Enhanced (SeaPort-e) multiple award contracts, provided for the issuance of a cost-plus-fixed-fee task order for these services for PEO Space Systems and related offices for a base year and 4 option years. Offerors were informed that the task order would be issued on a best-value basis, considering cost and the following non-cost evaluation factors, which were stated to be in descending order of importance: organizational experience; management approach; personnel qualifications (key personnel); and past performance. The RFP provided that the non-cost factors, combined, were significantly more important than cost. RFP amend. 3, at 54.

The solicitation provided a SeaPort-e Ratings Guide that described the adjectival ratings that would be used in the evaluation of the non-cost evaluation factors. See RFP amend. 2, attach. 11, SeaPort-e Ratings Guide. For example, offerors were informed that the technical evaluation board (TEB) would evaluate the organizational experience, management approach, and personnel qualifications factors as outstanding, good, acceptable, marginal or unacceptable.² Id. at 1. Offerors were informed that past performance would be evaluated as substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence (neutral).³ Id. at 3.

¹ Offerors were informed that the incumbent task order contractor was Accenture Federal Services, LLC. Agency Report (AR), Tab 2, Solicitation Question/Answer Nol. 1.

² As relevant here, an outstanding rating reflects a proposal that demonstrated an exceptional approach and understanding of the requirements, had strengths that far outweighed any weaknesses, and where the risk of unsuccessful performance was very low. A good rating reflects a proposal that demonstrated a thorough approach and understanding of the requirements, contained strengths which outweighed any weaknesses, and where the risk of unsuccessful performance was low. RFP amend. 2, attach. 11, SeaPort-e Ratings Guide, at 1.

³ As relevant here, a substantial confidence rating reflected a high expectation that the offeror would successfully perform the required effort, based on its recent/relevant performance record. A satisfactory confidence rating reflected a reasonable expectation of successful performance. RFP amend. 2, attach. 11, SeaPort-e Ratings Guide, at 3.

The RFP provided detailed proposal preparation instructions that, among other things, required offerors to provide separate technical and cost proposals and that described the information to be provided under each factor. RFP amend. 3, at 40-51. With respect to the organizational experience factor, offerors were instructed to describe the offeror's relevant corporate experience with performing and managing the PWS tasks. The RFP defined relevant corporate experience as work performed within the last 3 years that was of a similar technical nature, scope, size and complexity as that required by the PWS. Id. at 49.

With respect to the management approach factor, offerors were instructed to describe their proposed technical/management approach for performing and managing the PWS tasks, and to provide an overall technical/management plan that described the offeror's approach to systems engineering support services, including engineering, information technology, and logistics. Id.

With respect to the personnel qualifications factor, offerors were instructed to provide resumes for the following key personnel: senior systems engineer and senior information technology specialist. Id. at 50. Offerors were informed that key personnel must have experience supporting the work scope and organizations described in the PWS; that proposed key personnel could not be "key" on another contract; that they must hold an active "secret" clearance; and that they must be available at the time of award to travel up to 50 percent of each year. Minimum experience and education qualifications were also identified for the senior systems engineer and senior information technology specialist. Id. Offerors were also informed that key personnel that exceeded the minimum experience or education requirements may receive higher ratings. RFP amend. 2, attach. 11, SeaPort-e Ratings Guide, at 4.

With respect to the past performance factor, offerors were instructed to submit up to three completed Relevant Experience Forms (RFP amend. 2, attach. 7) for contracts performed within the last 3 years. The RFP advised offerors to choose experiences they deemed most relevant to the size and scope of the requirement. RFP amend. 3, at 51. The RFP also provided that the past performance evaluation would be based on both relevance (similarity of the work, in terms of scope and magnitude of effort and complexities) and quality (how well the offeror performed). RFP amend. 2, attach. 11, SeaPort-e Ratings Guide, at 3.

Detailed instructions were also provided for the preparation of offerors' cost proposals. RFP amend. 3, at 44-49. The RFP identified eight labor categories with associated estimated hours for the base and option years, for which offerors were required to provide their direct labor rates.⁴ For example, for the base year, the

⁴ The RFP stated that the offeror may also offer additional labor categories and corresponding hours not identified in the RFP. RFP amend. 3, at 44.

solicitation identified the program manager category with 2,000 hours and the senior information technology specialist category with 14,400 hours. RFP amend. 3, at 45. Offerors were also instructed to provide indirect cost rates and other cost information. Id. at 47-48.

Offerors were informed that the cost evaluation would be based on an analysis of the realism and completeness of the cost data, and that based on this analysis, the agency would determine the offeror's most probable cost to perform the task order.⁵ Id. at 55. The RFP cautioned that to the extent proposed costs appeared unrealistic, the agency might infer either a lack of understanding of the requirements, increased risk of performance, or lack of credibility on the part of the offeror.⁶ Id.

The Navy received proposals from three firms, including KinetX and VPSI. Both KinetX and VPSI based their proposals on teaming with a number of other companies with varying degrees of experience under the incumbent contract. KinetX emphasizes in its proposal, for example, that its team provides program office engineering support on the current contract, in addition to system design and development, providing exclusive insight into MUOS functionality. AR, Tab 8, KinetX's Proposal, at 1. VPSI's proposal states that its team, which includes Accenture (the incumbent systems engineering prime contractor), encompasses a majority of incumbent personnel, and asserts that it has been providing support to MUOS "since its inception." VPSI's Proposal, at 1-2.

The Navy decided to conduct discussions and established a competitive range that included only KinetX's and VPSI's proposals. With respect to KinetX, the Navy

⁵ Offerors were informed that the agency would, among other things:

Compare the proposed rates (direct, indirect, escalation) against DCAA [Defense Contract Audit Agency] recommended rates, or in the absence thereof, against other offerors' or marketplace rates. In the absence of DCAA, verified/verifiable direct rates or a comparison of the proposed rates against current payroll data, the Government may use other methods such as market salary surveys to determine the realism of the proposed rates. In the absence of DCAA verified/verifiable indirect rates, the Government may use statistical analysis to determine a range of marketplace indirect multipliers.

RFP amend. 3, at 55.

⁶ The RFP also provided for a price analysis to establish price reasonableness. Id. at 56.

identified evaluated technical weaknesses and concerns the agency had with some aspects of the firm's cost proposal. For example, the Navy informed KinetX that its proposed direct labor rates for its senior engineer and senior information technology specialists categories (with the exception of identified rates for certain individuals) were found to be below the market rates for the particular category.⁷ See Protest, exhib. C, Navy Letter to KinetX of Feb. 29, 2012.

The firms' final proposal revisions (FPR) were evaluated as follows:

	KinetX	VPSI
Organizational experience	Good	Outstanding
Management approach	Good	Good
Personnel qualifications	Good	Outstanding
Past performance	Satisfactory Confidence	Substantial Confidence
Overall Technical Rating	GOOD	OUTSTANDING
Proposed Cost	\$57,902,447	\$70,483,483
Probable Cost	\$65,421,254	\$75,153,602

AR, Tab 7, Technical Evaluation Report (TEB) Report, at 5; Tab 9, Cost Evaluation Board (CEB) Report, at 12, 32.

KinetX's overall good technical rating reflected the TEB's judgment that KinetX had demonstrated a thorough approach and understanding of the solicitation requirements and that it and its subcontractors proposed qualified personnel in most areas. AR, Tab 7, TEB Report, at 5. The TEB noted a number of major and minor strengths, and a number of minor weaknesses in KinetX's proposal. *Id.* at 6-13. For example, under the organizational experience factor, the TEB noted as a major strength the KinetX team's direct experience with MUOS architecture. *Id.* at 6. Under the personnel qualifications factor, the TEB assessed whether KinetX's proposed key personnel met or exceeded the various qualification requirements. The TEB found that KinetX's key personnel generally met and sometimes exceeded the requirements. *Id.* at 10-12.

VPSI's overall outstanding technical rating reflected the TEB's judgment that VPSI had demonstrated an exceptional approach and understanding of the program goals, methods, resources, schedules, and other aspects essential to the performance of the program. The TEB also found that VPSI had documented

⁷ KinetX's cost proposal provided a number of different labor rates for the senior engineer and senior information technology specialists labor categories, reflecting actual salary rates for employees, negotiated rates for contingent hires, and salary survey rates for anticipated hiring. See, e.g., KinetX Revised Cost Proposal, attach. 5.

extensive organizational experience and proposed exceptionally qualified personnel in almost all areas. Id. at 5. The TEB noted many major strengths and minor strengths in VPSI's proposal, and only one minor weakness.

The source selection authority (SSA) reviewed the reports prepared by the TEB and CEB and determined that VPSI's higher-rated, higher-cost proposal offered the best value to the agency. In this regard, the SSA found that the additional benefits offered by VPSI outweighed the approximately \$9.7 million difference in the firms' evaluated probable costs. AR, Tab 7, Source Selection Decision, at 6. In particular, the SSA noted the difference in the two firms' ratings under the most important organizational experience factor. The SSA stated that successful performance of the contract would require intimate familiarity with MUOS plans and operations. Although KinetX was assessed a major strength for its team's highly relevant experience with MUOS architecture, the SSA noted that the TEB assessed a number of major strengths in VPSI's proposal under the organizational experience factor, including extensive experience supporting the MUOS ground infrastructure development. Id. at 5. The SSA concluded that VPSI proposed an exceptionally qualified team and documented extensive, comprehensive experience with the MUOS program across a majority of the PWS requirements. Id. The SSA also noted that VPSI's team was comprised of more than [deleted] percent of [deleted], with over 10 years of experience. Id. at 7.

The task order was issued to VPSI. This protest followed a debriefing.

DISCUSSION

KinetX has numerous objections to the agency's technical and cost evaluations and the source selection decision.⁸ Although we have addressed only the protester's primary arguments in this decision, we have considered all of the protester's complaints and find that they do not provide a basis to find unreasonable the issuance of the task order to VPSI.⁹

⁸ KinetX abandoned a number of arguments, which the agency addressed in its report and to which KinetX provided no response. We do not address these arguments and issues that KinetX abandoned. See Cedar Elec., Inc., B-402284.2, Mar. 19, 2010, 2010 CPD ¶ 79 at 3 n.4.

⁹ Among its numerous arguments, KinetX complains that the agency's deputy program manager for an office within PEO Space Systems was a former VPSI executive and speculated that this individual may have aided VPSI in this procurement. See, e.g., Protest at 28-29; Protester's Comments at 24 n.10. The record shows, however, that before the RFP was issued, this individual recused himself from this procurement in an email to the agency's program manager, contracting officer, legal advisor and contracting officer's representative. See AR, Tab 12, Email, July 13, 2011. KinetX's continued speculation does not demonstrate
(continued...)

Evaluation of KinetX's Technical Proposal

KinetX generally complains that its proposal should have been rated higher under all of the non-cost evaluation factors. See Protester's Comments at 3-11. In this regard, the protester argues that the minor strengths assessed by the TEB under the organizational experience, management approach, and personnel qualifications factors should have been viewed as major strengths. KinetX contends that its proposal should have received an outstanding, and not good, rating under these factors. The protester also contends that VPSI's outstanding ratings under the organizational experience and personnel qualifications factors reflect disparate treatment where KinetX's proposal only received good ratings.

The evaluation of an offeror's proposal is a matter within the agency's discretion. IPlus, Inc., B-298020, B-298020.2, June 5, 2006, 2006 CPD ¶ 90 at 7, 13. In reviewing a protest against an agency's evaluation of proposals, our Office will not reevaluate proposals but instead will examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. See Shumaker Trucking & Excavating Contractors, Inc., B-290732, Sept. 25, 2002, 2002 CPD ¶ 169 at 3. By itself, a protester's disagreement with the agency's judgment in its determination of the relative merit of competing proposals does not establish that the evaluation was unreasonable. VT Griffin Servs., Inc., B-299869.2, Nov. 10, 2008, 2008 CPD ¶ 219 at 4.

Here, the protester merely disagrees with the agency's assessment of the overall merit of its proposal. In this regard, KinetX identifies no information in its proposal that the agency failed to consider or factual errors made by the agency in considering its proposal. Rather, the record shows that, as contemplated by the RFP, the agency exercised its judgment in assessing the overall merit of KinetX's proposal, based upon the evaluated strengths and weaknesses.

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any bad faith or bias on the part of the agency. In a similar vein, KinetX complains that on April 26, 2012, the Navy modified a task order that VPSI was performing, which allegedly provided VPSI with an opportunity for a "trial run" of this order. Protest at 30. The Navy explains that the modification of VPSI's task order was within the scope of both VPSI's contract and task order, and was issued to avoid interruption of critical operational support pending issuance of the task order here. AR at 44-45. Beyond KinetX's speculation that this reflects favorable treatment of VPSI, there is no evidence in the record that this task order modification, which occurred after the evaluation of technical proposals, had any impact on the evaluation of proposals or the selection decision.

For example, with respect to the evaluation of KinetX's proposal under the organizational experience factor, the protester argues that it did not receive sufficient credit for its team's "exclusive insight" into the MUOS system functionality, and other core competencies related to satellite control, operations, and space navigation. Protester's Comments at 3. KinetX contends that the level of experience and expertise it offered on MUOS could not be offered by any other company, and that it should have received an outstanding rating on this basis alone. KinetX also complains that it received insufficient credit for the experience of SAVID, LLC, one of its team members, which KinetX states "**provides exclusive incumbent core contractor support** for MUOS spacecraft bus and payload engineering in Sunnyvale, CA."¹⁰ Protest at 17 (emphasis in original).

The record shows, however, that the TEB recognized KinetX's relevant organizational experience, assessing a major and eleven minor strengths in its proposal, as well as one minor weakness. See AR, Tab 7, TEB Report, at 6. In this regard, the TEB specifically noted the protester's direct experience with MUOS architecture, which the evaluators found was a major strength. Id. The TEB also assigned a number of minor strengths with respect to KinetX's MUOS experience. The TEB also recognized, as a minor strength, the experience offered by KinetX's team member, SAVID, with respect to the spacecraft bus and payload engineering requirements of the PWS. Id. at 7.

Although KinetX believes that these evaluated strengths should have been more highly valued and should have resulted in a higher evaluation rating, this disagreement with the agency's business judgment provides no basis to find the agency's evaluation unreasonable.

KinetX also complains that VPSI's outstanding rating under the organizational experience factor reflected disparate treatment. We disagree and find from our review of the record that the firms' respective ratings under this factor reflected the TEB's judgment as to the relative merits of the firms' experience. For example, with respect to a systems engineering and security engineering PWS requirement, VPSI received a major strength, where its proposal documented the firm's proactive approach to engineering analysis and spectrum management. In this regard, the TEB noted that:

VPSI provided engineering recommendations and proposed changes that added significant capacity to the existing constellation to reduce the current [ultra high frequency] satellite footprint of F11,

¹⁰ The Navy notes that KinetX's protest presents arguments and information, such as for example numerous statements emphasizing SAVID's capabilities, which were not presented in its proposal for the agency's evaluation.

maximizing the Government's return on investment for potential future [ultra high frequency] commercial leases.¹¹

Id. at 15. The TEB recognized as a minor strength in KinetX's proposal under this same requirement that KinetX had highly relevant experience, where it had participated in the design of the MUOS key management architecture and the design of an encryption solution for the Navy's unmanned aerial vehicles. Id. at 7. Although KinetX believes the two firms should have received the same type of strength with respect to this requirement, this disagreement with the agency's judgment does not show it to be unreasonable.

Similarly, with respect to the evaluation of KinetX's proposal under the personnel qualifications factor, the protester contends that it should have received an outstanding, and not good, rating. As noted above, the RFP identified minimum experience and education requirements for key personnel. The solicitation also required proposed key personnel to have experience supporting the work scope and organizations described in the PWS, to not be a "key" person on another contract, to hold an active "secret" clearance, and to be available at the time of award for travel up to 50 percent of each year. KinetX contends that the agency's personnel qualifications evaluation focused upon only the specialized experience "subfactor," and not "all subfactors together." See 2nd Supp. Protest, at 7. In addition, KinetX contends that its and VPSI's proposals were evaluated disparately. Protester's Comments, at 12.

The record does not support KinetX's contention that the Navy unreasonably rated its or VPSI's proposals under the personnel qualifications factor. As an initial matter, we disagree with KinetX's view that the RFP established equally-weighted subfactors under this factor. The "subfactors" to which KinetX's points are actually various requirements that key personnel were to meet or exceed. In accordance with the Navy's announced rating guide, a proposal would receive an outstanding rating under this factor where a proposed key person met or exceeded many of the requirements. A good rating reflected a key person that met or exceeded some of the requirements. RFP amend. 2, attach. 11, SeaPort-e Ratings Guide, at 4. Offerors were specifically informed key personnel with additional years of the specified experience and/or higher levels of education may receive higher ratings. Id.

¹¹ The ultra high frequency follow-on (UFO) constellation is the present narrowband military satellite communication system, consisting of 8 satellites, including the UFO F11 satellite that was launched in 2003 "as a gapfiller" between UFO and the next generation MUOS. See www.public.navy.mil/spawar/PEOSpaceSystems/ProductsServices/Pages/default.aspx.

Here, the TEB reviewed the two firms' proposed key personnel, qualitatively considering the merit of these individuals' specific experience and qualifications. Thus, the TEB found that VPSI proposed key personnel with a greater degree of extensive and specific experience than KinetX. See AR, Tab 7, TEB Report, at 10-12, 18-20. Consistent with its rating guide, the Navy assigned a higher rating to VPSI's proposal under this factor. Although KinetX contends that the agency should have merely counted the number of instances where a proposed key person exceeded the stated requirements, this ignores the terms of the RFP that provided for considering the qualitative differences in key personnel.¹²

Evaluation of VPSI's Technical Proposal

In addition to complaining that the agency disparately evaluated the firms' technical proposals, KinetX challenges a number of other aspects of the agency's evaluation of VPSI's technical proposal. That is, KinetX complains that under the management approach factor, the Navy assessed a number of major and minor strengths in VPSI's proposal for the firm's ability to transition to performance and maintain continuity of the program. See Protester's Supp. Comments at 5-6. KinetX argues that this was unreasonable, where offerors were informed that they were not required to submit a transition plan as part of their proposal. See AR, Tab 2, Solicitation Questions/Answer No. 6.¹³

We do not agree with KinetX that the RFP did not allow for considering an offeror's ability to begin work under the task order, where the solicitation did not require the

¹² KinetX points to a key person it submitted that was found to have exceeded requirements for that person's clearance level and education level, and was rated good, while VPSI's proposed key person also exceeded two requirements, but received an outstanding rating. 2nd Supp. Protest at 8-9. The record shows that the agency found that VPSI's proposed key person had more extensive specialized experience, which in addition to exceeding the education qualifications, justified an outstanding rating.

¹³ The question and answer were as follows:

Since the incumbent, a large business, is prohibited from submitting a prime bid, the resulting contract will be awarded to a different company than the incumbent, which will require a transition. Will the government require a Transition Plan and, if so, will additional page count be specified in the Factor 2: Management Approach to account for it?

No transition plan is required.

AR, Tab 2, Solicitation Questions/Answer No. 6.

submission of transition plans. Offerors were required to describe their technical/management approaches for performing and managing the PWS tasks. As part of this, the RFP required offerors to show “how proposed staffing will ensure the most effective and economical performance, including an approach for selecting, retaining, supporting, and replacing personnel to ensure that personnel assigned are well-trained in order to minimize learning curve and ramp-up time.” RFP amend. 3, at 49. The TEB noted as strengths under this factor VPSI’s proposal of incumbent personnel that would allow the firm to seamlessly transition to performance, minimize learning curve and ramp-up time, and maintain subject matter knowledge. AR, Tab 7, TEB Report, at 17. We think that these considerations are reasonably related to or encompassed by the management approach factor, such that KinetX should reasonably have been on notice that their approach to commencing work would be evaluated.¹⁴ See Raytheon Co., Space and Airborne Sys., B-298626.2, B-298626.3, Sept. 27, 2007, 2007 CPD ¶ 185 at 11.

KinetX also complains that VPSI improperly received credit under the management approach and past performance factors for a contract “performed by a separate entity,” Space and C4I Associates (SC4I). According to the protester, although VPSI identified this contract in its own past performance, the contract “is not related to VPSI at all.” 2nd Supp. Protest at 15.

This allegation is belied by the record, however. The record shows that SC4I was formed as a joint venture between VPSI and two other companies. The other two companies withdrew from the venture, and VPSI was the only remaining entity. See Supp. AR at 11; AR, Tab 17, VPSI Joint Venture Documentation. Here, VPSI in its proposal identified SC4I as a “wholly owned entity of VPSI” and stated that the SC4I contract consisted of services performed by VPSI employees who are the same employees that will perform the efforts described in the organizational experience section in VPSI’s proposal, and would be available to perform the task order. See VPSI Technical Proposal at 27-28. We find no reason to question the agency’s evaluation in this circumstance.

Cost Realism Evaluation

KinetX also challenges the Navy’s cost realism evaluation of its and VPSI’s cost proposals. We find, as explained below, that the agency’s cost evaluation was reasonable.

When an agency evaluates proposals for the issuance of a cost-reimbursement order, an offeror’s proposed estimated cost of contract performance is not considered controlling since, regardless of the costs proposed by an offeror, the

¹⁴ KinetX in fact submitted a transition plan, which the TEB reviewed. AR at 23, Supp. AR at 4-5.

government is bound to pay the contractor its actual and allowable costs. See The Boeing Co., B-311344 et al., June 18, 2008, 2008 CPD ¶ 114 at 63. As a result, a cost realism analysis is required to determine the extent to which an offeror's proposed costs represent the offeror's likely costs in performing the order under the offeror's technical approach, assuming reasonable economy and efficiency. See FAR §§ 15.305(a)(1), 15.404-1(d)(1). A cost realism analysis involves independently reviewing and evaluating specific elements of each offeror's cost estimate to determine whether the estimated proposed cost elements are realistic for the work to be performed, reflect a clear understanding of the requirements, and are consistent with the unique methods of performance and materials described in the offeror's proposal. FAR § 15.404-1(d)(1); Advanced Commc'n Sys., Inc., B-283650 et al., Dec. 16, 1999, 2000 CPD ¶ 3 at 5. Based on the results of the cost realism analysis, an offeror's proposed costs should be adjusted "to realistic levels based on the results of the cost realism analysis." FAR § 15.404-1(d) (2) (ii).

The evaluation of competing cost proposals requires the exercise of informed judgment by the contracting agency. We review an agency's judgment in this area only to see that the agency's cost realism evaluation was reasonably based and not arbitrary. Earl Indus., LLC, B-309996, B-309996.4, Nov. 5, 2007, 2007 CPD ¶ 203 at 8. An agency's cost realism analysis need not achieve scientific certainty; rather, the methodology employed must be reasonably adequate and provide some measure of confidence that the agency's conclusions about the most probable costs under an offeror's proposal are reasonable and realistic in view of other cost information reasonably available to the agency as of the time of its evaluation. See Metro Mach. Corp., B-295744, B-295744.2, Apr. 21, 2005, 2005 CPD ¶ 112 at 10-11.

Here, KinetX challenges the Navy's upward adjustment of its proposed costs, complaining that the Navy did not accept a number of its proposed labor rates for personnel that it proposed to hire. See Protester's Comments at 17-18. In its cost proposal for the required labor categories, KinetX identified both actual employees (and contingent hires) and unidentified (to be determined) personnel that it would hire. See KinetX Revised Cost Proposal, attach. 5, Cost Summary. For its employees and contingent hires, KinetX identified the individual's actual labor rate or agreed labor rate. The Navy accepted as realistic the labor rates identified for KinetX's employees and contingent hires. See AR, Tab 9, CEB Report, at 14-15.

With respect to the unidentified personnel that it would hire, KinetX proposed either representative rates or market survey rates. For example, as part of its senior systems engineer labor category, KinetX identified two current employees and their associated actual labor rates, which the agency accepted as realistic for these two individuals. KinetX identified another approximately [deleted] hours in these labor categories that it would provide with unidentified personnel it would hire; KinetX based its proposed labor rates for these unidentified personnel upon rates (representative rates) of its two employees. For the senior information technology

specialist labor category, KinetX identified a proposed labor rate that was based upon salary survey data. See KinetX Revised Cost Proposal at 97. KinetX stated in its revised cost proposal that its proposed labor rates for these categories was based upon the labor rate for these categories in the [deleted] percentile on the Western Management Group compensation survey.¹⁵ See id., attach. 5. The Navy did not find KinetX's representative and survey rates for these labor categories to be realistic.¹⁶

With respect to the senior systems engineer and senior information technology specialist labor categories, the Navy reviewed two other salary survey websites (payscale.com and glassdoor.com). AR, Tab 9, CEB Report, at 7-8. The Navy considered the labor rates in the 90th percentile of these salary surveys to be realistic, when compared to its historic cost information and considering the complexity of the requirement. The Navy found that KinetX's proposed rates for the unidentified personnel in these two categories were more than [deleted] percent below the 90th percentile rates of the payscale and glassdoor surveys. Id. at 9. The Navy also compared KinetX's proposed rates to those of VPSI, the only other offeror in the competitive range, and found that KinetX's proposed salary survey rates for these categories were significantly lower than VPSI's average actual labor rates. The Navy concluded that KinetX's proposed rates for personnel it would hire in these categories were not realistic, and upwardly adjusted its rate to the level of the average 90th percentile rate of the payscale and glassdoor surveys. Id. at 14-15; AR at 34.

We find the Navy's adjustment of KinetX's labor rates for future hires in the senior systems engineer and senior information technology specialist labor categories to be supported by the record and reasonable.¹⁷ As documented in the contemporaneous record and as explained by the Navy in response to the protest, the requirements here present highly complex, specialized engineering challenges

¹⁵ The Western Management Group website identifies salary on a range from lowest to highest and from the 10th to 90th percentile.

¹⁶ The Navy did accept as realistic KinetX proposed salary survey rates for other labor categories, such as the engineer, information technology specialist, senior logistics/configuration specialist, senior program specialist, and program specialist categories. See AR, Tab 9, CEB Report, at 13-14.

¹⁷ KinetX also complains that the Navy was required to raise its technical rating to correspond with the higher labor rates applied to KinetX's planned hiring in the senior systems engineer and senior information technology specialist labor categories. There is no merit to this argument. In its technical evaluation, the Navy credited KinetX with providing qualified personnel in these labor categories. The cost realism adjustment applied by the Navy was to reflect the probable rates the agency would be required to pay for these individuals.

for which there is only a small community of engineering expertise available. See AR, Tab 9, CEB Report, at 8-9; AR at 35-38. Although KinetX disagrees with the Navy's judgment as to the realistic labor rate that would be required to hire suitable personnel in these labor categories, it has not shown that the agency's determination in this regard was unreasonable. Moreover in this regard, KinetX did not explain in its proposal or in response to the agency's identified concerns in discussions how it will be able to provide personnel in these labor categories at its proposed rates.¹⁸

KinetX also challenges the agency's evaluation of VPSI's cost proposal. Specifically, KinetX complains that the agency in its cost realism assessment of VPSI's labor rates reduced VPSI's proposed actual labor rates for nine employees. Protester's Comments at 17-18. Thus, for example, KinetX claims that VPSI proposes an actual labor rate of [deleted] for a current employee in the senior engineer labor category, but that the agency in its cost realism evaluation reduced this labor rate to [deleted]. See id. at 18.

The Navy responds that, although a summary table in the CEB's report purports to show that the agency reduced VPSI's actual labor rates in its cost realism evaluation, see AR, Tab 9, CEB Report, at 37-38, the agency used VPSI's actual labor rates in calculating the awardee's probable cost of performance. That is, the Navy found VPSI's actual labor rates to be realistic. See Agency's Response of July 24, 2012 to Protester's Supp. Comments, at 8-9. The Navy states that the summary table contained a transcription (or "cut & paste") error in this respect.

There is no merit to KinetX's arguments in this regard.¹⁹ The record shows that, in fact, the summary table, to which KinetX alludes, was in error. The table, which

¹⁸ KinetX raised a number of other challenges to the agency's upward adjustment of its labor rates in the senior systems engineer and senior information technology specialist labor categories, none of which we find have any merit. KinetX complains that the upward adjustment of its labor rates reflected an improper normalizing of its rates with those proposed by VPSI. Protester's Comments at 19-20. KinetX also contends that the agency's analysis was "focused on a specific percentage labor rate not identified in the solicitation." 2nd Supp. Protest at 11. These arguments are unsupported by the record, which, as explained above, shows that the agency's adjustments were based upon the agency's reasoned judgment as the labor rates it could be expected to pay during performance of the order.

¹⁹ KinteX also suggests that the Navy helped VPSI reduce its costs during discussions, given that VPSI reduced its overall proposed costs and where KinetX increased its overall proposed costs. See Protester's Comments at 23. There is no evidence in the record supporting the protester's suggestion that the Navy unreasonably aided VPSI in discussions.

provides the labor rates for [deleted], one of VPSI's subcontractors, includes explanatory notes showing that the Navy accepted as realistic these individuals' actual labor rates. See AR, Tab 9, CEB Report, at 38-39. The detailed supporting documentation for the CEB's cost realism evaluation also shows that the CEB did not reduce VPSI's proposed labor rates for this subcontractor but that the CEB accepted [deleted]'s actual labor rates as realistic.²⁰ See id., attach. 33, VPSI's Subcontractor's Cost Realism Spreadsheet.

Best Value Decision

KinetX also challenges the agency's best value decision, largely based upon its view that the SSA assigned too much weight to VPSI's proposal of an incumbent workforce and ability to seamlessly transition to performance. See Protester's Comments at 15-16.

Where, as here, a solicitation provides for a cost/technical tradeoff basis for selection decisions, source selection officials are permitted to make tradeoffs between the relative merits of proposals and price. The extent of such tradeoffs is governed only by the test of rationality and consistency with the solicitation criteria. See Wyle Labs., Inc., B-311123, Apr. 29, 2008, 2009 CPD ¶ 96 at 9. A protester's disagreement with the agency's determinations as to the relative merit of competing proposals and its judgment as to which proposal offers the best value to the agency, does not establish that the evaluation or source selection was unreasonable. Weber Cafeteria Servs., Inc., B-290085.2, June 17, 2002, 2002 CPD ¶ 99 at 4.

Here, the record contains substantial documentation regarding the evaluated merit of the firms' proposals and the agency's view that VPSI's proposal was technically superior to KinetX's. In this regard, as discussed above, we disagree with KinetX's view that the agency could not properly consider VPSI's offer of incumbent personnel and ability to seamlessly transition to performance as being more favorable than KinetX's approach.²¹ The SSA considered this advantage, along with other more favorable aspects, of VPSI's technically superior proposal in his cost/technical tradeoff analysis, and explained why VPSI's technical superiority was worth the premium associated with VPSI's approximately \$9.7 million higher

²⁰ The Navy did make some minor upward adjustment to the subcontractor's labor rates to reflect the agency's judgment that a higher escalation rate was required. See AR, Tab 9, CEB Report, at 38-39.

²¹ In its initial protest, KinetX essentially recognized the value of offering an incumbent workforce, where the protester argued that its own proposal should have been rated more highly based on the experience of some of its team members under the prior order. See Protest at 17.

probable costs. See AR, Tab 6, Source Selection Decision, at 6-8. Although KinetX disagrees with the SSA's judgment, this does not show that the SSA's cost/technical tradeoff analysis was unreasonable.

The protest is denied.

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General Counsel