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of the United States**

**United States General Accounting Office  
Washington, DC 20548**

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## Decision

**Matter of:** Servizi Aeroportuali, Srl

**File:** B-290863

**Date:** October 15, 2002

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Richard B. Oliver, Esq., McKenna Long & Aldridge, for the protester.  
T. Wayne Gray, Esq., Ross W. Dembling, Esq., and Kristen E. Ittig, Esq., Holland & Knight, for ALGESE, the intervenor.  
Andrew E. Squire, Esq., Department of the Navy, for the agency.  
John L. Formica, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### **DIGEST**

1. Agency reasonably evaluated price proposals and properly tailored discussions where it advised the protester of the agency's concerns about the use of an employment tax credit on which the protester's proposal indicated its price was premised and did not similarly consider this matter in evaluating the awardee's price because there was no indication that the awardee's price was similarly premised.
  2. Agency reasonably assigned the protester's and awardee's past performance the same rating of "better" where protester's performance on the most relevant contract was improving, but, considering the past 3 years was reasonably considered not "outstanding," and the awardee's performance on less relevant contracts was highly rated.
  3. Protest that the contracting agency unreasonably evaluated the protester's and awardee's oral presentations is denied where the record shows that the evaluation was reasonable; the protester's mere disagreement with the evaluation does not render the agency's judgment unreasonable.
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### **DECISION**

Servizi Aeroportuali, Srl (SA) protests the award of a contract to ALGESE under request for proposals (RFP) No. N68171-02-R-0015, issued by the Department of the Navy, for air terminal and ground handling services at the Naval Air Station,

Sigonella, Italy.<sup>1</sup> SA argues that the agency's evaluation of the offerors' proposals and oral presentations, and selection of ALGESE's proposal for award, were unreasonable.

We deny the protest.

## BACKGROUND

The RFP provided for the award of a fixed-price contract for a base period of 1 year with six 1-year options. The successful contractor will provide all supervision, personnel, materials and equipment (with the exception of certain equipment that will be provided by the government) for the performance of the required air terminal and ground handling services on a 24 hour per day, 7 day per week basis. RFP at 10.

The RFP stated that award would be made to the offeror submitting the proposal representing the best value to the government, considering the evaluation factors of acceptability, price, and capability. RFP at 97. Under the evaluation scheme, the agency would first determine each proposal's "acceptability . . . on a pass or fail basis" in order to ensure that no exceptions to the terms and conditions of the RFP had been taken. RFP at 97. The RFP advised that to determine the "best value" proposal for award the agency would consider the capability and price factors to be approximately equal in weight. RFP at 100.

The RFP provided that the "the reasonableness/realism of the price . . . in relation to the offeror's capability" would be evaluated. The RFP provided an independent government estimate and specified, among other things, that any proposal that was "priced, per body, below the Independent Government Estimate (IGE) for average loaded rate per body" of 53,873 euros would "carry with it an assessment of risk." RFP at 97.

The RFP informed offerors that the capability evaluation factor was comprised of two subfactors: past performance and understanding of the government's requirements. The RFP provided a detailed explanation as to how each offeror's past performance would be evaluated, stating that the agency would assess, for example, to what degree the offeror in performing contracts during the past 3 years

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<sup>1</sup> SA is a joint venture of PAE Group and the Longo Group of Companies. The current contract for these services is "being performed by PAE/AM, also a joint venture of PAE [Group] and the Longo Group of Companies." Agency Report (AR), Tab I, SA's Proposal, Cover Letter; Tab K, Pre-Negotiation Contract Review Board (CRB) Report, exh. 1, Basic Overview of Offerors, at 1. ALGESE is a joint venture of AliSud, Gesac Handling, and SERVISAIR. AR, Tab K, Pre-Negotiation CRB Report, exh. 1, Basic Overview of Offerors, at 1. AliSud performed the predecessor contract to the current contract. Contracting Officer's Statement at 1.

had delivered quality services in a timely manner, conformed to the material terms of the relevant solicitation, and was cooperative and committed to customer satisfaction, as well as the relative relevance of these contracts in terms of scope, magnitude, and complexity to the contract to be awarded here. RFP at 98.

With regard to the understanding of the government's requirements subfactor, offerors were required to make an oral presentation up to 2 hours in length, to be followed by a question and answer session between the offeror and contracting agency representatives. RFP at 93. The solicitation explained that the agency would "evaluate each offeror's understanding of the Government's requirements on the basis of its oral presentation," and required that the offerors' oral presentations be organized in a manner that addressed each of the four evaluation criteria set forth in the solicitation under the understanding of the government's requirements evaluation subfactor. RFP at 93. These four equally weighted criteria were: (1) understanding and approach, (2) management of the operation and key personnel, (3) staffing, and (4) quality control. RFP at 99. The understanding and approach criterion was comprised of the following seven equally weighted subcriteria: (1) air terminal operations center, (2) cargo services, (3) fleet aircraft service, (4) passenger services, (5) communications/management of information systems, (6) transportation, and (7) aircraft ground services. The management of the operation and key personnel criterion was comprised of the following two equally weighted subcriteria: (1) management of the operation and (2) key personnel. RFP amend. 1 at 99.

The agency received proposals from SA and ALGESE by the RFP's closing date. Oral presentations were conducted, discussions held, and final proposal revisions were requested and received. The proposals of SA and ALGESE were considered acceptable and received the identical rating of "better" with "low risk" under the capability evaluation factor.<sup>2</sup> Specifically, each proposal received a rating of "better" with "low risk" under the past performance subfactor, and "better" with "low risk" under the understanding of the Government's requirements subfactor. The proposals received the same rating of "better" under each of the four criteria comprising the understanding of the Government's requirements subfactor with the exception of the staffing criterion, where ALGESE's proposal received a rating of "better" and SA's proposal received a rating of "satisfactory." AR, Tab O, Post-Negotiation CRB Report, at 4. The agency determined that the proposals were "essentially equal" under the capability factor and that because ALGESE's price of 97,109,716 euros was lower than SA's price of 99,422,564 euros, ALGESE's proposal represented that best value to the government. *Id.* at 4, 18. After requesting and receiving a debriefing, SA filed this protest.

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<sup>2</sup> The following adjectival ratings were used in the evaluation of proposals: outstanding, better, satisfactory, and less than satisfactory. AR, Tab C, Source Selection Plan § 2.1.2.

## ANALYSIS

SA challenges virtually every aspect of the agency's evaluation of proposals. That is, the protester argues that the agency's evaluation of proposals under the price factor, each of the subfactors (past performance and understanding of the government's requirements) and the criteria and subcriteria that comprise the capability factor, was unreasonable.

### Price Evaluation

With regard to the price factor, SA complains that the agency "treated the two offerors inconsistently regarding the use of an Italian employment tax credit." Protester's Comments at 2.

SA stated in its initial proposal that its "cost per body" was "lower than the IGE 'Floor'" in part because SA would realize a savings from an unexplained "Employment Tax credit." AR, Tab I, SA's Initial Proposal, Addendum to Pricing Schedule. In order to best assess SA's proposal, the contracting officer contacted a local law firm to inquire about the availability of any "Employment Tax Credit." AR, Tab K, E-mail from Contracting Officer to Local Counsel (May 13, 2002). The contracting officer was informed that the employment tax credit anticipated by SA would not be permitted under Italian law. AR, Tab K, E-mails from Local Counsel to Contracting Officer (May 18 and 28, 2002). The local counsel added that because of the agency's knowledge of SA's plan, which in the view of local counsel would require SA to make false statements to the Italian government, any agency representatives that were aware of SA's plan could be subject to criminal prosecution if SA's proposal, including its employment tax credit plan, were accepted by the agency and SA attempted to implement its plan. Id.

The contracting officer requested and received from SA additional information regarding the reference in its proposal to an employment tax credit. AR, Tab O, E-mail from Contracting Officer to SA (May 29 and 31, 2002); E-mail from SA to Contracting Officer (May 30, 2002); SA's Letter to Contracting Officer (June 3, 2002). This issue was further explored during discussions, and after considering numerous submissions from SA on the subject as well as local counsel's response to those submissions, the contracting officer informed SA in its request for final proposal revisions of the agency's concerns regarding SA's employment tax credit plan. AR, Tab O, E-mail from Contracting Officer to SA (June 14, 2002). The protester responded in its cover letter to its final proposal revisions that "based on concerns raised during discussions . . . SA has elected NOT to rely on any employment tax credit under Italian Law . . . and has revised and increased its . . . price." AR, Tab M, SA's Final Proposal Revisions, Cover Letter.

The agency ultimately concluded that although SA's final proposed "cost per body" was 3 percent below the IGE, SA had adequately explained that its lower cost was

due to a lower than usual profit and indirect costs, and accordingly, its price presented no risk. The agency made a similar determination with regard to ALGESE's proposal, finding that while its "cost per body" was 1.4 percent below the IGE, its lower cost was due to a lower than normal profit, and there was thus no risk. Contracting Officer's Statement at 13.

SA complains that the agency "unfairly treated the two offerors differently" by "insisting that [the employment tax credit] not be used to price SA's proposal while ignoring the same concern with ALGESE." Protester's Comments at 4. In response to the agency's assertion that there was nothing in ALGESE's proposal that stated or otherwise indicated that ALGESE had contemplated the use of any employment tax credit, SA contends that the agency was nevertheless obligated to determine during discussions whether "ALGESE was using the tax credit to price its proposal." Protester's Supplemental Comments at 5-8. The protester argues that because the agency did not do this, its evaluation of ALGESE's proposal under the price factor was not reasonably based.

Although SA characterizes this aspect of its protest as a challenge to the agency's price evaluation, we view it as a challenge to the agency's conduct of discussions. That is, SA's contention here, as set forth above, is that once the agency raised the issue of an Italian employment tax credit with SA during discussions, it was required to raise this same issue with ALGESE. Under the circumstances here, we disagree.

In negotiated procurements such as this, the scope and extent of discussions with offerors in the competitive range are matters of contracting officer judgment. Federal Acquisition Regulation (FAR) § 15.306(d)(3); Biospherics, Inc., B-286065, July 13, 2000, 2000 CPD ¶ 118 at 5. For discussions to be meaningful, they must lead offerors into the areas of their proposals requiring amplification or revision. The Cmtys. Group, B-283147, Oct. 12, 1999, 99-2 CPD ¶ 101 at 4. Although offerors must be given an equal opportunity to revise their proposals and an agency cannot favor one offeror over another, discussions need not be identical. Rather, the FAR contemplates that discussions will be tailored to each offeror's particular proposal. FAR §§ 15.306(d)(1), (e)(1); World Travel Serv., B-284155.3, Mar. 26, 2001, 2001 CPD ¶ 68 at 5-6; DeLeon Technical Servs., Inc.; TekStar, Inc., B-288811 et al., Dec. 12, 2001, 2002 CPD ¶ 10 at 7-8 n.7.

In our view, the contracting officer properly tailored discussions to the offerors' particular proposals. Specifically, the contracting officer reasonably raised the employment tax credit issue with SA during discussions, given its proposal's express reference to this, and reasonably chose not to raise the same issue with ALGESE, given that its proposal contained no such reference. We also note that, as explained by the contracting officer, the agency had no reason to question whether ALGESE's price was based in part on such a credit, given the agency's conclusion that, as mentioned previously, ALGESE's "cost per body" was relatively close to the IGE. In sum, we have no basis to object to the contracting officer's conduct of discussions,

and find the agency's determination that ALGESE's proposed price did not pose risk reasonable.<sup>3</sup>

### Past Performance Evaluation

The protester next challenges the agency's evaluation of SA's and ALGESE's proposals as "better" with "low risk" under the past performance subfactor to the capability factor, arguing that its past performance should have been rated higher than ALGESE's.

The evaluation of past performance is a matter within the discretion of the contracting agency. In reviewing an agency's evaluation of past performance, we will not reevaluate proposals, but instead will examine an agency's evaluation to ensure that it was reasonable and consistent with the solicitation and with applicable statutes and regulations. Acepex Mgmt. Corp., B-283080 et al., Oct. 4, 1999, 99-2 CPD ¶ 77 at 3.

The record reflects that in evaluating the offerors' past performance the agency considered the past performance information included in the proposals, the responses to questionnaires that the agency sent to the points of contact (POC) identified by the offerors, and information obtained from the relevant contractor performance assessment reporting system (CPARS). AR, Tab K, Pre-Negotiation CRB Report, exh. 6, Past Performance Questionnaire; Tab O, Post-Negotiation CRB Report, at 5-7.

SA's proposal provided past performance summaries for two contracts--PAE/AM's current contract with the agency for the air terminal services at Sigonella, and an airfield operations services contract that PAE had performed for the United Nations in East Timor.<sup>4</sup> AR, Tab I, SA's Proposal, at 3-16. The agency found that the CPARS reported the performance under the current Sigonella contract as ranging from "satisfactory" to "very good" under each of the four CPARS categories reported for

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<sup>3</sup> Moreover, we note that during the course of this protest ALGESE submitted a declaration prepared by a vice president of one of the three entities that comprise ALGESE. In this declaration, the vice president states that he is "familiar with all aspects of the ALGESE joint venture proposal," and that "ALGESE did not rely on any 'Italian Employment Tax Credit' in formulating its proposed price." Intervenor's Supplemental Comments, Tab A, Declaration of the Vice President of AliSud, at 1.

<sup>4</sup> Although SA has no past performance history of its own, the agency considered the past performance information provided by SA as its own given the similarities of the entities that actually performed the contracts to the entities that comprise SA. AR, Tab O, Post-Negotiation CRB Report, at 6-7.

fiscal year 2000, and “very good” to “exceptional” for fiscal year 2001.<sup>5</sup> AR, Tab O, Post-Negotiation CRB Report at 7; Tab Q, CPARS for PAE Technical Services. The past performance questionnaire for the Sigonella contract was completed by the contracting specialist, with the contractor’s performance rated for the past year as “outstanding” under three of the four categories, and “better” under one category, and “better” on all four questions when performance for the past 3 years was considered together.<sup>6</sup> Although the contracting specialist completing the questionnaire rated the Sigonella performance as “outstanding” in general, the record shows that the contracting officer here, who is also the contracting officer for the current contract, noted that the contractor’s performance on the Sigonella contract had been rated as “satisfactory” for fiscal year 1999, and that based upon the ratings received, the contractor’s overall performance for the 3-year period did “not equal an overall rating of Outstanding but rather a solid [better] over that period of time.” Given the above, as well as the “outstanding” rating received by the contractor for its performance of the “slightly less relevant” United Nations contract, SA received an overall rating under the past performance subfactor of “better” with “low risk.” AR, Tab O, Post-Negotiation CRB Report, at 16.

SA raises numerous specific complaints with regard to the evaluation of its proposal under the past performance subfactor to the capability factor. For example, SA argues that the agency’s rating of its proposal under the past performance subfactor as “better” with “low risk” was unreasonable, in that it did not recognize that the ratings of the contractor’s performance on the current Sigonella contract evidenced continual improvement to the point that the contractor’s performance was now considered “outstanding.” The protester adds that the contracting officer erred in not considering the contracting specialist’s overall rating of the contractor’s performance under the current contract as “outstanding,” and contends that in any event, an averaging of the past two performance evaluations for the Sigonella and East Timor contracts would lead to an “outstanding” rating.

As set forth above, the CPARS for the performance of the current Sigonella contract rated the contractor’s as “satisfactory” to “exceptional,” and the response to the questionnaire for this contract rated the contractor’s performance as ranging from “better” to “outstanding.” Although we agree with SA that the past performance

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<sup>5</sup> The four categories reported were: quality of services, schedule, business relations, and management of key personnel. AR, Tabs P and Q, CPARS for AliSud and PAE Technical Services.

<sup>6</sup> The past performance questionnaire requested a response for performance within the last year and a response for performance over the past 3 years for questions dealing with the contractor’s (1) quality of services, (2) conformance to the contract requirements, (3) cooperation, and (4) commitment to customer satisfaction. AR, Tab O, Post-Negotiation BCM, exh. F, Past Performance Questionnaire.

assessments considered by the agency evidence continual improvement in the contractor's performance on the current contract, there is no requirement that such improvement result in an overall rating of "outstanding," particularly where, as here, there are CPARS that were prepared within the past 3 years that rate the contractor's performance as only "satisfactory" to "very good." Sterling Servs., Inc., B-286326, Dec. 11, 2000, 2000 CPD ¶ 208 at 3. In short, we cannot find unreasonable the agency's view that "[w]hile the trend upward was good, there was still some weak past performance that needed to be weighed in the process." AR at 14.

Nor do we believe that the contracting officer acted unreasonably in determining that, in her view, the contracting specialist's responses to the past performance questionnaire, which, among other things, characterized the contractor's performance as "better" under all four assessment categories when performance for the past 3 years was considered together, equated to an overall rating of "better" rather than "outstanding." While the evaluators' adjectival ratings may be useful as guides to intelligent decision-making, they are not binding on the source selection authority (here, the contracting officer), who has discretion to determine the weight to accord such ratings in making an award decision. Porter/Novelli, B-258831, Feb. 21, 1995, 95-1 CPD ¶ 101 at 4-5. Of concern to our Office is whether the record as a whole supports the reasonableness of the evaluation results and the source selection decision. Orbital Techs. Corp., B-281453 *et al.*, Feb. 17, 1999, 99-1 CPD ¶ 59 at 9. Here, the contracting officer was aware of the contracting specialist's views regarding the contractor's performance under the predecessor contract, the views expressed in the CPARS, and the "outstanding" ratings of the contractor's performance on the less relevant East Timor contract. The contracting officer's determination differed from the contracting specialist's only with regard to the contracting officer's reasonable conclusion that SA's performance at Sigonella over the past 3 years was "better" rather than "outstanding." Based upon the record here, we have no basis upon which to find unreasonable the agency's evaluation of SA's proposal as "better" with "low risk" under the past performance subfactor.

The protester next complains that the agency's evaluation of ALGESE's proposal as "better" with "low risk" under the past performance subfactor was unreasonable. The protester contends that ALGESE's past performance rating could not reasonably equal SA's rating, given SA's more relevant experience under the current Sigonella contract.

ALGESE's proposal identified a number of contracts performed by the entities that comprise ALGESE. The contract considered most relevant by the agency was currently being performed by the three entities that comprise ALGESE, and had previously been performed by AliSud. That contract, for the performance of services at the Naples Military Air Terminal, was considered by the agency to be similar in scope and complexity, but not magnitude, given that the Naples terminal handles less aircraft and cargo than Sigonella. AR at 15; Tab O, Post-Negotiation CRB Report, *exh. E*, Past Performance Evaluation of ALGESE. The agency found that the

CPARS reported the performance under the Naples contract as “exceptional” under each of the four CPARS categories reported for fiscal year 2000, and “very good+” to “exceptional” for fiscal year 2001. AR, Tab O, Post-Negotiation CRB Report, at 8. The past performance questionnaire for the Naples contract rated the contractor’s performance for the past year as “outstanding” under all four categories, and “outstanding” on two and “better” on the other two categories when performance for the past 3 years was considered together.<sup>7</sup> The POC for the Naples contract also noted in responding to the questionnaire that, in his view, “[i]f required, [ALGESE] could handle a much higher volume of traffic in Naples.” The Naples POC added a number of other positive comments to the questionnaire, for example, that “[t]he one common theme that describes [the contractor] was courteous, friendly, and extremely helpful,” and that “[t]his company is customer oriented and it shows in their daily activities.” The POC concluded that because of the contractor’s attitude and performance, the agency has “an excellent product.” AR, Tab O, Post-Negotiation CRB Report, exh. E, Past Performance Evaluation of ALGESE.

Gesac Handling, one of the three entities that comprise ALGESE, also provided past performance information with regard to eight contracts performed for eight different companies. The record reflects that six of the references responded, with one reference, for whom Gesac performs a contract for aircraft servicing and air cargo services with an estimated value of 6,000,000 euros per year, rating Gesac as “outstanding” overall, and the other five references rating Gesac’s performance as “better” overall. Id.

The record also includes six responses from SERVISAIR’S references. One of these references, which rated SERVISAIR’s performance as “better” overall, was for a contract with an estimated value of approximately \$75 million per year, under which SERVISAIR performs “everything,” including passenger processing, aircraft servicing, and cargo services. One of the other references rated SERVISAIR’s performance as “outstanding” overall, three as “better” overall, and one as “satisfactory” overall. Id.

The record reflects that the agency considered the past performance information provided by each of ALGESE’s references in terms of the services provided by the contractors, their relevance to the contemplated Sigonella contract, and the ratings provided by the references. The agency concluded that while the past performance information provided by ALGESE indicated, in many instances, “outstanding” or “exceptional” past performance, the referenced contracts, although certainly relevant to the agency’s assessment here, were generally not of the same magnitude

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<sup>7</sup> Although the questionnaire asked about performance over the past 3 years, and that is why it is described in that manner here, the record reflects that the reference made clear and the contracting agency understood that the current contract had been in place for only 18 months.

in terms of the services required at Sigonella. The agency also noted that the firms which comprise ALGESE “have not, under one contract, performed the same or similar magnitude of cargo handling, passenger service and aircraft servicing as that required under Sigonella.” The agency determined that the risk posed by this was “slight,” given that “the offeror already understands and performs (in an outstanding manner) the [United States] military unique cargo processing procedures, and the passenger processing procedures and the aircraft servicing procedures at the Naples Air Terminal.” The agency concluded that because of the contractor’s “outstanding” performance under the Naples contract, as well as the other positive past performance information received, the “processing of a higher magnitude of cargo, passengers and aircraft should only be a matter of providing additional resources.” Accordingly, the agency rated ALGESE’s proposal as “better” with “low risk” under the past performance subfactor. AR, Tab O, Post-Negotiation CRB Report, at 8-12, 15-16.

The protester primarily complains that the agency’s evaluation of ALGESE’s proposal under the past performance subfactor was unreasonable because none of the contracts referenced in ALGESE’s proposal and considered by the agency are the same in terms of scope, magnitude, and complexity as the current Sigonella contract referenced by SA in its proposal. The protester concludes here that its “past performance is unquestionably superior to ALGESE’s past performance and the contracting officer’s determination that the past performance rating for the two offerors is equal is unreasonable.” Protester’s Comments at 14.

We disagree. The evaluation record here demonstrates that the agency’s evaluation of the offerors’ past performance was thoughtful and detailed, and as discussed above, took into consideration the scope, magnitude, and complexity of the contracts reported as well as the references’ ratings of the offerors’ performance. While we agree with the protester, as did the agency during its evaluation of the offerors’ past performance, that SA’s past performance was more relevant than ALGESE’s, we cannot find the agency’s overall rating of the offerors under the past performance subfactor unreasonable, given the higher ratings provided by ALGESE’s references. As such, the protester’s contentions here constitute nothing more than its mere disagreement with the agency’s evaluation, and provide no basis on which to sustain the protest. Five-R Co., B-288190, Sept. 10, 2001, 2001 CPD ¶ 163 at 3.

#### Oral Presentation Evaluation

The protester next argues that the agency’s evaluation of the oral presentations under the understanding of the government’s requirements subfactor to the capability evaluation factor was unreasonable. In this regard, the protester challenges the ratings it received under each of the four criteria that comprise the understanding of the government’s requirements subfactor as well as each of the subcriteria that comprise the evaluation criteria. The protester also contends that

ALGESE's proposal was unreasonably evaluated here under certain of the evaluation criteria and subcriteria.

The evaluation of proposals is a matter within the discretion of the contracting agency since the agency is responsible for defining its needs and the best method of accommodating them. In reviewing an agency's evaluation, we will not reevaluate proposals, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's stated evaluation criteria and applicable statutes and regulations. Encorp-Samcrete Joint Venture, B-284171, B-284171.2, Mar. 2, 2000, 2000 CPD ¶ 55 at 4.

Based on our review of all of these contentions, as illustrated by the following examples, the protester has failed to show that the agency's evaluation of proposals under the understanding of the government's requirements subfactor to the capability evaluation factor was unreasonable. Indeed, the bulk of the protester's arguments constitute mere disagreement with the agency's evaluation, which does not render the evaluation unreasonable. Id.

One example concerns the protester's argument that the agency's evaluation of its proposal as only "better" under the cargo services subcriterion was unreasonable. In this regard, the protester contends that the agency failed to recognize the value of "SA's proposed use of . . . [DELETED]," and its plan to provide as contractor-furnished equipment an additional [DELETED]. Protest at 8-9. The protester also contends that the evaluators' determination that SA "could have enhanced its presentation if it had elaborated more on special handling and its role in the hazardous material process," see AR, Tab K, Pre-Negotiation CRB Report on SA's Oral Presentation, at 3, was without basis, given the extent of SA's explanation regarding the handling of hazardous materials, including its statement that "all sixteen (16) of its current loadplanner employees have certificates for shipment of [hazardous] materials." Protest at 8.

The record reflects that the agency found that SA's proposed plan for accomplishing the cargo services evidenced a number of strengths. For example, the agency specifically noted as a "[s]ignificant strength[]" SA's intent to [DELETED] certain personnel, as well as the protester's proposed "focus on avoiding any violations concerning the handling of priority cargo." AR, Tab K, Pre-Negotiation CRB Report on SA's Oral Presentation, at 3. With regard to SA's proposed use of an additional contractor-furnished [DELETED], the agency explains that it did not consider this to be a strength because an additional [DELETED] "is simply unneeded," and the use of an additional [DELETED] "will only take up much needed space in an already crowded ramp/cargo area." AR at 19. The agency explains with regard to its comment regarding SA's explanation as to the handling of hazardous materials that the agency considers the handling of hazardous materials to be a significant and important part of this contract given the consequences of any mishandling of such materials. AR at 18. The agency specifically points out here that the solicitation

required, among other things, that the contractor provide qualified personnel for the inspection, quality control, and handling of hazardous materials, and certain training regarding the handling of hazardous materials for all personnel who will handle cargo. Supplemental AR (SAR) at 12; RFP, Statement of Work (SOW), at 15. The agency explains that, in its view, the fact that SA's proposed personnel have certificates for the shipment of hazardous materials essentially indicated SA's compliance with a solicitation requirement, and in any event, did not require that SA's presentation receive a rating of "outstanding" under the cargo services evaluation criterion. SAR at 12-13.

The protester's contentions regarding this example reflect nothing more than its mere disagreement with the agency's views. That is, the record, as discussed above, reflects that the agency recognized many of the strengths in SA's presentation pointed to by SA in this protest, including, for example, SA's plan to [DELETED] certain personnel, and credited SA for these strengths by virtue of its "better" rating for this criterion. With regard to the agency's view that the protester's proposed use of an additional [DELETED] was not a strength, we note that the protester has not refuted the agency's apparently reasonably based contention that the use of an additional [DELETED] will add to the crowding of the cargo area and was thus not a strength. Finally, not only do we find reasonable the agency's position (set out above) regarding the protester's merely compliant response to the hazardous material handling requirements, but our review of the oral presentation videotapes confirms the agency's observation that the protester did not elaborate on its role in the handling of hazardous materials.

Another example of SA's complaints about the agency's evaluation of its oral presentation concerns the key personnel subcriterion. Here, the protester contends that its presentation's rating of "satisfactory" under the key personnel subcriterion was unreasonable.

The RFP required that the contractor provide a "Station Manager" and "Alternate Station Manager," and specified that the individuals proposed to fill these positions would be considered key personnel by the agency and could not be substituted "without the approval of the Contracting Officer." The RFP detailed a number of requirements for the Station Manager position, including the requirement that the "Station Manager shall have a minimum of two (2) years, and preferably up to five years, of experience in a supervisory management position(s) of an air terminal operation of comparable size and complexity." RFP, SOW, at 29-30.

The RFP requested that oral presentations include a discussion as to how each offeror "intends to staff the two key personnel positions of Station Manager and Alternate Station Manager," and cautioned offerors that they were required to provide specific information regarding their proposed key personnel. The solicitation added here that offerors were to specify the length of the commitment of the Station Manager and Alternate Station Manager to those positions, and specified

that “[t]he preference is for long term commitment.” The solicitation also requested that offerors provide “the extent of English proficiency as well as Italian proficiency” for their proposed Station Managers and Alternate Station Managers. RFP at 94.

SA proposed the current Station Manager and Alternate Station Manager at Sigonella for performance of the contract. In evaluating SA’s presentation, the agency noted this, and that the current Station Manager would meet the minimum 2-year experience requirement “by the start of this new requirement (1 October 2002).” The agency also noted that SA’s presentation provided that its proposed Station Manager “will remain for 3 years on the contract,” and that “a longer term commitment would have been preferred.” The agency added that SA “may have been able to do better” under the key personnel subcriterion “if it had elaborated on,” for example, the proposed Station Manager’s “involvement in Sigonella receiving the award for ‘U.S. Navy Best Large Air Terminal.’” AR, Tab K, Pre-Negotiation CRB Report on SA’s Oral Presentation, at 6.

With regard to SA’s proposed Alternate Station Manager, the agency noted that this individual was currently serving in this capacity at Sigonella. The agency found, however, that while SA represents that its proposed Alternate Station Manager had the requisite experience for this position, SA “was not convincing that this experience would lead to other than Satisfactory quality in this position.” The agency added here that while “[a]s presented,” the Alternate Station Manager “will remain for 4 years on the contract,” a “longer term commitment would have been preferred.” The agency thus rated SA’s presentation as “satisfactory” overall under the key personnel subcriterion. Id.

The protester complains that the agency erred in evaluating the length of the commitments of both SA’s Station Manager and Alternate Station Manager. In this regard, the protester contends that the Station Manager’s and Alternate Station Manager’s commitments should be considered as totaling 5 and 7 years, respectively, rather than 3 and 4 years as considered by the agency. The protester bases this argument on the fact that the Station Manager and Alternate Station Manager have been serving in those capacities under the current contract for 2 and 3 years, respectively, and that this past performance should have been considered when calculating the length of the individuals’ commitment to the contract to be awarded here.

We agree with the agency that the amount of time that SA’s proposed Station Manager and Alternate Station Manager have served in those capacities under the current contract is irrelevant to their length of commitment to the contract to be awarded under this RFP. AR at 24. The agency, as reflected by the terms of the solicitation, was clearly trying to determine the length of commitment of the offerors’ proposed Station Managers and Alternate Station Managers to this contract. The agency explains here that:

[t]he reason the Navy included a preference for a longer-term commitment and minimum qualifications for Station Manager and Alternate Station Manager was the fact that throughout the life of the current contract, the contractor played musical chairs with the key personnel. . . . [O]ver the course of 5 years, the incumbent contractor had used four to five Station Managers. The Navy hoped to avoid that situation in the forthcoming contract.

SAR at 15. The agency accomplished this by considering only the individuals' proposed commitments to the performance of this contract, which we find reasonable.

The protester next argues that regardless of the content of SA's oral presentation, the evaluators' observation that SA may have been able to do better under the key personnel subcriterion if it had elaborated on the proposed Station Manager's involvement in Sigonella receiving the award for U.S. Navy Best Large Air Terminal, was unreasonable. The protester contends that the evaluators "were well aware of [the proposed Station Manager's] efforts on the current contract and his many accomplishments," and that "[i]t is simply not credible for the evaluators to now claim that they did not know what [the proposed Station Manager] did as Station Manager." Protest at 11. The protester concludes that the evaluators were required to consider their personal knowledge of the Station Manager's efforts on the current contract.

The agency explains that while its personnel were aware of the Station Manager's capabilities regarding the processing of contract modifications and other contract documents, the evaluators were more interested in an explanation of the Station Manager's "managerial qualities from an operational standpoint." The agency points out here, for example, that contrary to the protester's view, the "Contracting Officer has no insight into what [the Station Manager] does from an operational/managerial perspective or the quality of his operational/managerial performance," and therefore was "in no position to confirm or 'deny' what operational/managerial skills he brought to contract performance." Contracting Officer's Supplemental Statement at 11. In light of the agency's credible explanation here that its personnel were not in a position to comment on or evaluate the day-to-day operational and managerial performance of SA's proposed Station Manager based solely on their observations during the performance of the current contract, but rather, reasonably expected that such information would be provided during SA's oral presentation, we find the protester's complaint here to be without merit.

The protester also argues that the agency's evaluation of ALGESE's oral presentation under the key personnel subcriterion was unreasonable. The protester complains that the agency's rating of ALGESE's presentation here as "better" was unwarranted, given that the agency rated ALGESE's proposed Station Manager as only "satisfactory with strengths" and the Alternate Station Manager as "better." The

protester also asserts that ALGESE's Alternate Station Manager should not have been rated as "better" because, according to SA, he "had been fired from his position on the current contract after participating in illegal wildcat strikes." Protester's Comments at 22. SA concludes that the agency's evaluation of ALGESE's presentation under the key personnel criterion as "better," and thus higher than SA's "satisfactory" rating, was unreasonable and indicative of an overly "mechanical" evaluation that considered only "years of experience and length of commitment rather than . . . the quality of that experience." Protester's Supplemental Comments at 24.

The record reflects that ALGESE informed the agency that the individual proposed as its Station Manager was "committed to the contract for the entire 7 years," and was "completely fluent in both English and Italian."<sup>8</sup> With regard to the proposed Station Manager's experience, the agency found that he had more than 5 years "management experience at the Naples Military Air Terminal." The agency noted, however, that while the Naples terminal is comparable to Sigonella with regard to complexity of operations, the traffic volume at Naples is lower. The agency concluded with regard to ALGESE's proposed Station Manager that, although certain of his strengths, including experience, fluency in Italian, and length of commitment would warrant a rating of "better," the fact remained that he had not managed a terminal with the same volume at Sigonella. The agency thus rated ALGESE's proposed Station Manager as "satisfactory with strengths." AR, Tab K, Pre-Negotiation CRB Report on ALGESE's Oral Presentation, at 6-7.

ALGESE's proposed Alternate Station Manager was also committed for the entire 7-year term of the contract (including options), and was fluent in English and Italian. The agency found that the proposed Alternate Station Manager's experience included, for example, "8 years experience in the area dealing with aircraft loading [and] 13 years experience in the area dealing with passenger service operations." The agency thus rated the Alternate Station Manager as "better." *Id.* at 7.

In our view, the agency's evaluation here also was not overly "mechanical," as asserted by the protester, but rather was well thought out and documented. As indicated, ALGESE's proposed Station Manager was rated "satisfactory with strengths" and the Alternate Station Manager was rated "better." In assigning a "better" rating to this subcriterion, the record reflects that the agency reasonably considered and weighed the lengths of commitment of these individuals to the contract, their fluency in English and Italian, and their depth of experience, which included significant experience in managing the Naples military terminal. The record also shows that the agency found that the relative strengths of ALGESE's

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<sup>8</sup> Fluency in English and Italian was considered positively by the agency given that the workforce at Sigonella is Italian. In contrast, SA's proposed Station Manager was not claimed to be fluent in, but was studying, Italian.

proposed Station Manager and Alternate Station Manager “complement[ed] each other in their managerial roles,” and represented a “sound general understanding” of the agency’s needs. Id. at 6.

With regard to the assertions made by the protester that ALGESE’s Alternate Station Manager was “fired from his position on the current contract after participating in illegal wildcat strikes,” we note that ALGESE has submitted a declaration providing that the individual voluntarily resigned his position under the current contract to accept another job, as well as a copy of a letter from the incumbent contractor accepting this individual’s resignation. Protester’s Comments at 22; Intervenor’s Supplemental Comments at 3-4, Tab A (Declaration of the vice president of AliSud, at 1); Tab B (Letter from PAE Accepting Resignation); Tab C (English Translation of Letter from PAE Accepting Resignation). With regard to the individual’s alleged participation in a strike, the agency notes only that “there were so many labor problems with PAE at the time” that none of the agency evaluators had anything other than a vague recollection of what occurred and did not know what persons were involved. SAR at 17 n. 20; Contracting Officer’s Supplemental Statement at 12.

In sum, although here too the protester clearly disagrees with the agency’s judgments regarding the evaluation of presentations under the key personnel subcriterion, we cannot find unreasonable the agency’s determination that while SA’s proposed key personnel had more relevant experience, the key personnel proposed by ALGESE warranted the higher rating of “better” (as compared to SA’s “satisfactory” rating), given the combination of their experience, commitments to the entire term of the contract including option years, and fluency in Italian and English.

The protester next argues that the agency unreasonably evaluated its and ALGESE’s oral presentations as “satisfactory” and “better,” respectively, under the staffing criterion.

The RFP requested that offerors present information regarding their intended staffing of the contract. The solicitation specified, for example, that offerors were to provide the “total number of employees” and “number of employees in each major area of service.” The RFP added that this was to include information regarding how shifts will work, and training required for personnel in each major service area. The offerors were also to specify “the extent to which the offeror intends to hire . . . the approximately 233 Italian personnel now employed by the incumbent.” RFP at 94. As mentioned previously, the solicitation provided an IGE of 235 FTEs for the contract, and the contract required, among other things, that the successful contractor “be able to service simultaneously a maximum of ten (10) aircraft.” RFP SOW at 10; AR, Tab E, Contracting Officer’s E-mail (Mar. 28, 2002).

The protester’s oral presentation included references to, and explanations of, numerous charts and calculations in support of its proposed staffing of [DELETED] FTEs. AR, Tab I, SA’s Oral Presentation, Staffing. SA also explained that it intended

to hire all 233 incumbent employees, and its oral presentation included a discussion of agreements it had reached with the local labor unions.

The agency found that while SA's proposed [DELETED] FTEs was "clearly sound in comparison to the government estimate" of 235 FTEs, its "presentation was often confusing in how it calculated the need for [DELETED] [FTEs]." AR, Tab K, Pre-Negotiation CRB Report on SA's Oral Presentation, at 7. The agency also found that SA's oral presentation focused at times on the processing of 7 aircraft simultaneously, and only referred to the simultaneous servicing of 10 aircraft as a "surge requirement," even though "[b]eing able to process 10 aircraft simultaneously is a basic requirement of the solicitation not a surge requirement." *Id.*; Contracting Officer's Supplemental Statement at 13. The agency also noted that when asked during its presentation whether it could service 10 aircraft simultaneously with its proposed staff of [DELETED] FTEs, SA "said 'yes' without elaborating." The agency ultimately concluded that while SA could perform the work required with its proposed staff of [DELETED] FTEs, it "could have done better explaining allocation of resources to meet the basic solicitation requirement of 10 aircraft," and rated SA's presentation as "satisfactory" under the staffing criterion. AR, Tab K, Pre-Negotiation CRB Report on SA's Oral Presentation, at 7.

The agency found ALGESE's oral presentation "clear and straight forward" regarding its explanation as to how the work required could be performed with [DELETED] FTEs. In this regard, the agency noted that ALGESE explained that its staffing calculation was based upon previous experience at Sigonella, as well as its experience at the Naples Military Air Terminal, and that the strengths of ALGESE's presentation included its plans to [DELETED] enhance efficiencies and quality," as well as its "clear and consistent focus on relating staffing to the basic requirement of processing 10 aircraft simultaneously." ALGESE also stated that it intended to hire all 233 incumbent employees. Although the agency found that ALGESE could have provided a better explanation of its specific training plans for its personnel, it rated ALGESE's presentation as "better" under the staffing criterion because of the aforementioned strengths. AR, Tab K, Pre-Negotiation CRB Report on ALGESE's Oral Presentation, at 8-9.

The protester argues here that in evaluating SA's presentation the agency should have accorded greater weight than it did to SA's discussion of the agreements that it had reached with the local labor unions, and complains that contrary to the agency's views, its presentation detailing how it arrived at a total staff of [DELETED] FTEs and their respective roles was not "confusing." The protester also contends that the agency should have found that ALGESE's proposed staff of [DELETED] FTEs represented considerable risk as to whether ALGESE could perform the requirements of the contract, primarily arguing that ALGESE will be understaffed based upon the protester's calculations, and that ALGESE's past experience is irrelevant to the requirements of this RFP and thus cannot be considered as support for its staffing calculations here.

With regard to the protester's assertion that it should have received more credit for its asserted local labor union agreements, we agree with the agency that none of the evaluation factors or criteria in the RFP, including the staffing criterion, provide that labor agreements would be considered in evaluating proposals. Contracting Officer's Supplemental Statement at 13. Additionally, based on our review of the oral presentations, we cannot find unreasonable the agency's view that SA's oral presentation was confusing with regard to its justification of its proposed staffing level.

With regard to the protester's assertion that ALGESE's proposed staffing level of [DELETED] FTEs was too low, we note that SA's contention is based solely on its calculations, rather than any examination of ALGESE's proposed approach to accomplishing the requirements of the solicitation. That is, the protester's contention here ignores ALGESE's staffing approach, as detailed in, among other things, ALGESE's staffing charts, or other factors that led to the agency's conclusion, such as ALGESE's plan to [DELETED] certain personnel, which the agency found would "enhance efficiencies and quality." See AR, Tab K, Pre-Negotiation BCM on ALGESE's Oral Presentation, at 8. Additionally, we disagree with the protester that the contractor's experience in performing the Naples Military Air Terminal contract, or its previous experience at Sigonella, is irrelevant. In this regard, as noted by the agency, one of the entities that comprise ALGESE held the contract for services at Sigonella for 20 years. Thus, we cannot find unreasonable the agency's view that this familiarity with Sigonella, as well as ALGESE's current performance of a similar contract at Naples, added credibility to ALGESE's staffing plan and estimate.

Accordingly, we find no basis to object to the agency's evaluation of SA's and ALGESE's presentations as "satisfactory" and "better," respectively, under the staffing criterion.

A final example of the protester's objections to the agency's evaluation of its oral presentation concerns the rating of SA's presentation under the quality control criterion as "better." The protester argues here that the agency failed to recognize that it was increasing its staffing from, under its current contract at Sigonella, [DELETED] to [DELETED]. The protester concludes that had the agency properly evaluated this aspect of its presentation, it would have received a rating of "outstanding" under the quality control criterion.

The agency found that SA's presentation regarding its proposed approach to quality control "exceeded a sound general understanding in many aspects." The agency specifically noted, for example, that the "[t]he lines of [Quality Control] reporting are clear, logical, and should result in the [Quality Control] manager being informed at all times on the level of compliance and quality," and that SA "will have [DELETED]." AR, Tab K, Pre-Negotiation CRB Report on SA's Oral Presentation, at 9. The agency adds that while the number of personnel proposed by SA was not specifically

mentioned in its evaluation, it was aware that SA's presentation provided for an increase in the staffing of the quality control function [DELETED]. The agency concludes by stating that, despite the protester's view to the contrary, it simply did not find that SA's plan for quality control merited a rating of "outstanding." The agency also notes here that the protest seems to imply that offerors start out at "outstanding" and the government must justify a rating below that, which turns the evaluation process on its head. AR at 30. Again, although the protester clearly disagrees with the agency's evaluation of its presentation here, we fail to see why the agency's evaluation, which noted a number of strengths in SA's presentation and rated it as "better" under the quality control criterion, was unreasonable.

In sum, as illustrated by the foregoing examples, SA's complaints about the evaluation of its oral presentation constitute mere disagreement with the agency's evaluation and the record shows that this evaluation was reasonable.<sup>9</sup>

Finally, SA challenges the agency's best value determination, based upon its contention that its and ALGESE's proposals and presentations were unreasonably evaluated. As explained in the analysis above, we believe that the agency's evaluation of proposals and presentations was reasonable. Because the agency in its source selection document reasonably explained why ALGESE's lower-priced proposal represented the best value to the government, SA's contentions here provide no basis for overturning the award determination. Matrix Int'l Logistics, Inc., B-277208, B-277208.2, Sept. 15, 1997, 97-2 CPD ¶ 94 at 14.

The protest is denied.

Anthony H. Gamboa  
General Counsel

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<sup>9</sup> As noted, SA protests the evaluation of its oral presentation under virtually every criterion and subcriterion under the understanding of the Government's requirements subfactor. Although we have only specifically discussed only some representative examples of the protester's contentions, our Office carefully considered all of the contentions and found them to primarily constitute mere disagreement with the agency's evaluation; none showed that the agency's evaluation was unreasonable. SA's submissions have also raised a number of other contentions concerning the evaluation of its and ALGESE's proposals and presentations, which we considered, but were not specifically discussed in this decision, because these contentions were either abandoned by the protester by not responding to the agency's report on these contentions, or were meritless or immaterial.