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United States General Accounting Office
Washington, DC 20548

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Decision

Matter of: ViaSat, Inc.

File: B-291152; B-291152.2

Date: November 26, 2002

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Joseph C. Port Jr., Esq., Robert J. Conlan, Esq., Mark P. Guerrera, Esq., Richard L. Larach, Esq., Beth Ann Isenberg, Esq., Jonathan Adam DeMella, Esq., Courtney J. Edmonds, Esq., and Sally H. Jamieson, Esq., Sidley Austin Brown & Wood, for Titan Systems Corporation, an intervenor.
Maj. Ed. Beauchhamp, and Denise Maramma, Esq., United States Army Materiel Command, for the agency.
Paul I. Lieberman, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Evaluation of protester's past performance as presenting a moderate performance risk is unobjectionable where the agency reasonably based the assessment on consideration of significantly negative performance evaluations under contracts that protester specified as relevant in its proposal; protester's explanations and attempts during discussions to minimize or disavow the relevance of the unfavorably rated performance and to disassociate itself from the adverse performance information were considered by the agency, which reasonably concluded that the explanations did not provide any basis to ignore the poor performance under relevant contracts listed and performed by the protester.

2. Uniformly favorable assessments of awardee's past performance under numerous contracts that explicitly satisfied the relevancy criteria under the solicitation provided a reasonable basis for the agency to evaluate the awardee's past performance as presenting a low performance risk.

3. Protester's contention that various alleged technical enhancements under its proposal were not considered and credited by agency is contradicted by the evaluation record, which reflects that the agency recognized the items at issue and gave protester evaluation credit in several instances where it was warranted, but

reasonably declined to credit the protester for other features that constituted nothing beyond satisfying the solicitation requirements, or consisted of unsupported assertions that were not substantiated by the technical proposal.

4. Where the record reflects that agency's evaluation of technical proposals is reasonable and consistent with the solicitation evaluation criteria, protester's repeated disagreements concerning the relative merits of different areas of the respective proposals does not provide a valid basis to question the propriety of the evaluation.

5. Agency's cost realism analysis was reasonably based in part on favorable Defense Contract Audit Agency (DCAA) reports that were provided orally to agency during course of evaluation, as evidenced by e-mail, even though a final DCAA report confirming the previously conveyed interim evaluations was not transmitted until after the award determination had been made.

6. Agency's cost/technical tradeoff and resulting award determination which is reasonable, documented and consistent with the solicitation criteria is unobjectionable.

DECISION

ViaSat, Inc. protests the award of a contract to Titan Systems Corporation for certain satellite communications systems under request for proposals (RFP) No. DAAB07-02-R-D403, issued by the United States Army Communications and Electronics Command (CECOM). ViaSat objects to numerous aspects of the agency's evaluation of the proposals, most particularly with respect to the performance risk factor, and contends that the resulting award determination is arbitrary and unreasonable.

We deny the protest.

BACKGROUND

The solicitation, issued on May 14, 2002, sought proposals for the design and development of a Ka-Band satellite augmentation terminal (KaSAT) system, a lightweight, mobile, flexible, modular, and scalable integrated tactical military satellite communications terminal system that operates in the military Ka frequency band over the wideband gapfiller satellite system. The RFP calls for the contractor to develop, test, document and deliver 10 developmental KaSAT systems, consisting of 8 transit case systems and 2 shelter-mounted systems. RFP § A-4.2.

The solicitation provides for a best-value award on the basis of four evaluation factors: technical, performance risk, cost, and small business participation, with the technical factor significantly more important than performance risk, which in turn is more important than cost, which is more important than small business participation. RFP § M-A. The bulk of the contract award is cost-reimbursement,

consisting of cost-plus-award-fee (CPAF) and cost-plus-fixed-fee (CPFF) contract line items (CLIN), and a small time and material (T&M) CLIN; the contract also contains a relatively minor fixed-price CLIN. With respect to the CPAF, CPFF and T&M CLINs, the solicitation provides that the proposed cost would be evaluated for realism by determining the government's prediction of the probable cost of the offeror's specific technical approach and, if necessary, adjusting the probable cost. RFP § M-C.3(a). The fixed-price CLIN price (for five units) is added to the total probable cost to calculate a total cost, with respect to which the RFP contained a $22,000,000 ceiling. RFP § M-C.3(d).

Three initial proposals were received by the June 17, 2002 closing date. The ViaSat and Titan proposals were evaluated as susceptible of being made technically acceptable while the third proposal was evaluated as technically unacceptable. On July 10, a competitive range was established consisting of the Titan and ViaSat proposals. On July 11, discussions were commenced in the form of the issuance of written items for negotiation (IFN) to each offeror, with 26 IFNs issued to Titan and 38 to ViaSat. Agency Report (AR) at 8. After initial responses were received, three additional IFNs were issued to Titan and two were issued to ViaSat. After responses to all of the IFNs had been received, teleconferences were conducted with each offeror on July 23 to provide each offeror with an opportunity to clarify and discuss its written responses to the IFNs. Id.

The offeror's revised proposals were reviewed and an interim evaluation was completed on July 25. Final proposal revisions were solicited from both offerors on July 26, with a July 30 closing date. Neither offeror made any changes, and the final evaluation was completed on August 2. Under the final evaluation rollup, Titan's proposal received a technical rating of "good," a performance risk rating of "low risk," and a small business participation rating of "good," at a total proposed cost of $21,888,994; ViaSat's proposal received a technical rating of "good," a performance risk rating of "moderate risk," and a small business participation rating of "acceptable," at a total proposed cost of $18,397,700. AR at 9.

In making her award determination, the source selection authority (SSA) noted Titan's relatively higher evaluation under the small business participation factor. The SSA determined that while both proposals were evaluated as "good" overall under technical, Titan's proposal was actually technically superior as evidenced by its having been evaluated as offering a relatively greater number of strengths both major and minor with respect to meeting the objectives of the KaSAT requirement, as well as presenting fewer minor weaknesses than ViaSat's proposal. Titan also presented a low to moderate risk in the technical factor with only five areas of moderate risk versus ViaSat's moderate risk based on nine evaluated risk areas, thus, in the SSA's view, ViaSat presented a greater risk for timely accomplishment of the KaSAT program requirements. The SSA also considered the lower performance risk presented by Titan's relatively higher rated past performance as reflecting little doubt that Titan would be able to successfully perform, while ViaSat's project

management and schedule problems presented some doubt that it could perform the proposed effort. The SSA concluded that the combined effect was that she had confidence that Titan could successfully complete the contract, and she determined that Titan's evaluated advantages outweighed the cost advantage presented by the ViaSat proposal. Accordingly, the SSA selected Titan for award on August 6. AR, Tab 80, Source Selection Decision, at 4-5. After receiving notice of the award and a debriefing, ViaSat filed this protest with our Office.

PROTEST ALLEGATIONS

ViaSat's underlying protest premise is that it submitted a lower cost proposal which received a technical rating that was equal to the Titan proposal's technical rating, therefore, the respective performance risk evaluations were determinative. Protest at 2. ViaSat contends that the performance risk evaluations were fundamentally flawed, asserting that Titan's "low risk" evaluation was unsupported, and that ViaSat's "moderate risk" rating should have been a "low risk" rating. Id. In addition, ViaSat asserts that there were numerous improprieties in the technical evaluation of both offerors proposals, insisting that ViaSat's superior experience and expertise was reflected in its technical proposal, and that the agency failed to conduct meaningful discussions with ViaSat regarding various perceived weaknesses in ViaSat's technical proposal, and with respect to ViaSat's past performance. ViaSat further contends that the agency's cost realism analysis of Titan's proposal was defective, and asserts that overall, "[t]his flawed evaluation culminated in an improper tradeoff analysis that favored award to Titan." Id.

PERFORMANCE RISK EVALUATION

ViaSat's Past Performance

ViaSat details its allegedly exceptional qualifications, and propounds its status as "the leading supplier of Mobile Satcom terminals to the Department of Defense (DOD) markets." Protest at 5. ViaSat also recites numerous corporate acquisitions which have contributed to the breadth of its product line and established its position as a leading-edge provider in the field of satellite communication technologies. Protest at 5-6. In essence, ViaSat postulates that its superior background and qualifications entitle it to a low risk past performance rating, and that its evaluation must be relatively better than that of Titan, whom ViaSat contends "possesses very little experience in hardware development generally, and satellite communication," and thus is entitled to "no better than a '[n]eutral' rating." Protest at 23. The record reflects that the agency received significantly adverse reference assessments of ViaSat's past performance under three contracts, as a result of which ViaSat's proposal was evaluated as presenting a moderate risk, rather than given the low risk rating to which ViaSat believes it is entitled.

Under the performance risk factor, the RFP called for an assessment of the relative risks associated with an offeror's likelihood of success in performing the requirements as indicated by that offeror's record of past performance. RFP § M-C.2. The solicitation provided for an assessment based on the quality, relevancy and recency of the offeror's past performance, and that of its major subcontractors, as it relates to the probability of successful accomplishment of the required effort. The RFP indicated that the considerations for assessing past performance consist of all aspects of cost, schedule and performance including, among other things, the offeror's record of conforming to specifications, forecasting and containing costs on cost-reimbursement contracts, and adherence to contract schedules, including the administrative aspects of performance. RFP § M-C.2(a). The solicitation also provided that a negative finding under any of these elements may result in an overall high-risk rating. RFP § M-C.2(b).

The RFP instructed offerors to submit a description of all relevant government and industry contracts and major subcontracts performed during the past 3 years, and specifically defined relevant contracts as those for "tactical satellite terminals or any major components such as antennas, RF/IF conversion and or amplification, modems, etc." RFP amend. 5, at 4. In response to these instructions, ViaSat listed nine contracts in its proposal, stating that these represented "programs that have direct relevance to the KaSAT program including similar modem, security, antenna, and RF efforts." AR, Tab 55, ViaSat Performance Risk Proposal, at 1. The agency received favorable reference reports for ViaSat under six of the listed contracts. However, the agency also received significantly negative past performance reports with respect to project management deficiencies and failure to meet schedules from ViaSat's references under the other three listed contracts, denominated as the "Flex Modem" contract, the "MIDS" contract, and the "Connexion" contract. As a result, ViaSat's proposal was evaluated as presenting a moderate performance risk rather than a low risk.

Under the Flex Modem contract, ViaSat's references provided information that while ViaSat[1] eventually met expectations for technical performance, it did not achieve the original expectations, that ViaSat's deliveries were late to the severe detriment of the program, and that its project management and schedule were unsatisfactory. The agency issued two IFNs to ViaSat, one seeking an explanation of ViaSat's design and fabrication responsibilities and its relationship with the prime contractor, the other indicating that the reference had detailed ViaSat's problems in project management

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[1] The actual entity performing under the Flex Modem contract was a predecessor contractor, subsequently acquired by ViaSat, which now operates as the Comsat Laboratories division of ViaSat, and is proposed to perform aspects of ViaSat's responsibilities as the prime contractor under this RFP. ViaSat agrees that Comsat's performance as a subcontractor under this contract properly is attributable to the protester.

and schedule, noting that the original schedule was not achieved, that there had been a significant overrun, and that ViaSat's achievement against the revised schedule was variable. AR, Tab 57, ViaSat's IFN Responses, Nos. B-26, B-31. In response, ViaSat explained that it had performance responsibilities for the design of modules that subsequently was used to fabricate the prototype modules and final units, and was a subcontractor to the prime on a modem development program, and continued on as a consultant after design of the prototype, but did not perform actual fabrication. ViaSat took the position that its work had been accurately completed and delivered on schedule. Id. The agency took note of ViaSat's disagreement with respect to its responsibility for the reported deficiencies and its defense of its performance, but ViaSat had conceded it was responsible for much of the early hardware design, which was used as the basis for the fabrication, which provided a basis for the evaluators to conclude that ViaSat's participation as a subcontractor contributed to the schedule and performance problems, and that ViaSat had at least partial responsibility. AR, Tab 86, ViaSat's Performance Risk Evaluation Reports, Final Report at 13.

Under the MIDS contract, ViaSat's reference indicated that ViaSat was unsatisfactory under project management because the units delivered are in different configurations making interchangeability a significant problem, and that the schedule was met only after the buying command twice extended the schedule for consideration. The agency issued an IFN advising ViaSat of the reference information that the MIDS units are currently in different configurations, making parts interchangeability a significant problem, that there were weaknesses in parts control, that a major subcontractor supplying a key component had a low first pass yield with resulting significant delays in fielding units to the original schedule, and that ViaSat's subcontractor control had been weak. AR, Tab 57, ViaSat's IFN Responses, at IFN B-30. ViaSat responded by agreeing that there had been delays, with respect to which it had negotiated an equitable adjustment, and blamed the problems on the complexity of the product and on ViaSat's reliance on a government furnished technical data package which it claimed was inconsistent, incomplete and deficient. As a result ViaSat states that it made assumptions regarding design and operation which affected interchangeability, and which required redesign at ViaSat's expense. ViaSat pointed out that it is taking steps to rectify the deficiencies, and asserted that "none of the root-cause issues apply to the KaSat program," noting that it does not have any high-risk modules or subcontracts identified in its proposed approach. Id. The evaluators concluded that ViaSat's response confirmed the problems; the response indicated that ViaSat had underestimated the effort and difficulty of the project, and, notwithstanding the alleged data package defects, ViaSat's interpretation of the data package was an issue.

Under the Connexion contract, ViaSat's reference rated ViaSat's performance as unsatisfactory under effectiveness of project management and timeliness of performance, noting ViaSat's late deliveries, unforeseen development problems and overly optimistic schedule management. The agency issued IFN B-29 apprising

ViaSat of this information, in response to which, ViaSat conceded that it was a key participant in the development of system level specifications, and that it had run into multiple difficulties that delayed schedule performance and ultimately resulted in late deliveries. ViaSat's defense was that this was a technically innovative program, and that the KaSAT contract did not present the same risks for similar development and schedule problems because of the approach taken by ViaSat. Id. at IFN B-29. The evaluators recognized that ViaSat did not dispute the deficiencies in its response and concluded that the risks were relevant. AR, Tab 86, ViaSat's Performance Risk Evaluation Reports, Final Report, at 12. As a result of ViaSat's past performance deficiencies under these three contracts, ViaSat's proposal was evaluated as presenting a moderate performance risk.

In its protest, ViaSat takes exception to the agency's consideration of these negative references arguing variously that the reference information was faulty, that the adverse performance pertained to irrelevant past performance issues, and reflected a misapplication of the RFP evaluation criteria, and that ViaSat had addressed the perceived past performance weaknesses in its responses to various IFNs, but that CECOM ignored the information that ViaSat provided. Protest at 11. In our view, none of ViaSat's arguments are supported by the evaluation record and, therefore, provide no basis to call into question the reasonableness of the agency's evaluation.

The evaluation of past performance is a matter within the discretion of the contracting agency, which our Office will review in order to ensure that it was reasonable and consistent with the stated evaluation criteria. NLX Corp., B-288785, B-288785.2, Dec. 7, 2001, 2001 CPD ¶ 198 at 7. An agency's past performance evaluation may be based on a reasonable perception of inadequate prior performance, regardless of whether the contractor disputes the agency's interpretation of the underlying facts. Ready Transp., Inc., B-285283.3, B-285283.4, May 8, 2001, 2001 CPD ¶ 90 at 5. A protester's mere disagreement with the agency's judgment is not sufficient to establish that the agency acted unreasonably. Birdwell Bros. Painting & Refinishing, B-285035, July 5, 2000, 2000 CPD ¶ 129 at 5.

Here, notwithstanding ViaSat's contrary interpretation of the information summarized above, in fact, ViaSat's IFN responses substantially confirmed the negative references, while providing a variety of excuses, attempting to attribute the conceded deficiencies to other entities, and seeking to discount the shortcomings as not relevant to the current effort. Thus, for example, ViaSat argues that the project management and scheduling deficiencies that were assessed under the Connexion contract "are not relevant to the work called for under the KaSAT procurement, and therefore, CECOM could not properly rely on that work as a basis for downgrading ViaSat under the Performance Risk factor." Protest at 20. The simple answer is that ViaSat had itself claimed in its proposal, and the agency evaluation confirmed, that the work performed by ViaSat under these contracts is directly relevant to the requirements under the present solicitation because it was for tactical satellite terminal systems and major system components. In our view, ViaSat simply cannot

plausibly avail itself of the defense that it is entitled to receive credit for having performed these contracts because they are directly relevant, but it may not be penalized for its poor performance thereunder because the particular elements in question do not pose a risk under ViaSat's explanation of the approach that it proposes here. This is a specious dichotomy and is inconsistent with the RFP criteria; the agency reasonably concluded that the contracts were relevant both for purposes of establishing that ViaSat had relevant experience and for assessing the quality of ViaSat's performance in obtaining that experience.

As for the various mitigating explanations and excuses now provided by ViaSat, its claim with respect to the MIDS contract is representative. ViaSat argues that "any performance issues that may have been attributable to ViaSat under the MIDS contract stemmed exclusively from problems with [ViaSat's] rogue subcontractor" Protester's Comments at 38. The simple answer is that a "rogue subcontractor" defense does not provide any basis to excuse ViaSat's performance deficiencies as the prime contractor. A prime contractor under a government contract is normally responsible for the performance of its subcontractors. Neal R. Gross & Co., Inc., B-275066, Jan. 17, 1997, 97-1 CPD ¶ 30 at 4. ViaSat has not provided any credible basis to conclude otherwise here.

ViaSat also argues that the agency failed to conduct meaningful discussions with respect to its past performance. As detailed above, the agency specifically disclosed the relevant adverse reference information to ViaSat through detailed IFNs, and considered ViaSat's responses to the IFNs. In order to satisfy its obligation to conduct meaningful discussions with competitive range offerors, while an agency is required to lead the offerors into areas of their proposals that require revision or amplification, the fact that an offeror's responses do not fully satisfy the evaluators provides no basis to conclude that the discussions were inadequate. Ryan Assocs., B-274194 et al., Nov. 26, 1996, 97-1 CPD ¶ 2 at 6-7. The record shows that the agency here conducted meaningful discussions. Its determination that the explanations and excuses offered by ViaSat were unpersuasive provides no basis to object to the discussions. ViaSat's attempts to provide a more favorable picture of its performance history than drawn by the agency does not alter the fact that there was sufficient evidence for the agency to conclude that the firm's proposal warranted a moderate risk performance rating. As noted above, the solicitation expressly provided that a negative finding under any element, such as scheduling, was sufficient to warrant a high risk rating. ViaSat's past performance references for three separate contracts each provided a reasonable basis for a negative finding under more than one performance element. Accordingly, ViaSat has offered no credible basis to object to the agency's application of the past performance evaluation criteria in downgrading of ViaSat's rating to "moderate risk," and its conclusion that "some doubt exists" that ViaSat could perform the proposed effort, in view of the substantial evidence of performance shortcomings by ViaSat in specified areas of concern under relevant contracts.

Titan's Past Performance

Titan listed seven relevant contracts, all of which the agency determined were relevant because they are for systems or major components of systems for tactical satellite terminals, specifically including major components for this KaSAT procurement. This satisfies the explicit definition of relevancy provided in the solicitation. ViaSat's objection is premised on its claim that Titan's experience "pales" in contrast to ViaSat's, as a result of which ViaSat contends that "no rational basis existed for CECOM's decision to accord Titan a lower performance risk rating than ViaSat." Protester's Comments at 41. ViaSat's predicate is that it has more and better relevant contracts, based on its definition of relevance as pertaining to the design and development of complete satellite terminal systems, rather than components. Protester's Comments at 43. ViaSat's objection is misplaced because it ignores the definition of relevance contained in the RFP, which specifically encompasses major components as well as complete systems. Accordingly, ViaSat has not provided any valid basis to question the evaluated relevance of Titan's past performance.

As to the evaluations, the record is clear that the references for all seven contracts identified by Titan provided uniformly favorable responses, and did not identify any areas of poor performance, thus providing a reasonable basis for Titan's low risk evaluation. AR, Tab 91, Titan's Performance Risk Evaluation Reports, at 3-4. ViaSat contends that the agency should have gone behind the references, and points to allegedly adverse past performance information available elsewhere. We disagree. Where the agency contacted all of Titan's references, which provided uniformly favorable responses for all seven demonstrably relevant contracts, without indicating or identifying any shortcomings, we see no reason to require the agency to seek out other sources of allegedly adverse information. Accordingly, there is no basis to question Titan's performance risk rating, and we conclude that the past performance risk evaluations for both offerors are unobjectionable.

TECHNICAL EVALUATION

ViaSat initially believed that its technical proposal had been evaluated as equal to Titan's, and argued that "[g]iven Titan's lack of background and experience in Satcom terminal development and its dearth of preexisting Titan hardware components to adapt to meet the solicitation requirements, it was unreasonable for CECOM to conclude that Titan was the equal of ViaSat" with respect to the feasibility of its technical approach. Protest at 30. In fact, as summarized above, while the Titan and ViaSat technical rollups were both "good," Titan's proposal was evaluated as presenting more strengths and fewer weaknesses than the ViaSat proposal, as well as lower risk, and was considered technically superior by the SSA. ViaSat has critiqued numerous aspects of the technical evaluation of both proposals, contending that the agency's findings are unsupported by or contrary to the record,

are inconsistent in the manner of assigning strengths and weaknesses to the respective proposals, and assess unsubstantiated weaknesses in ViaSat's proposal. Protester's Comments at 52.

In essence, ViaSat presents a comprehensive reevaluation of the two proposals in which it draws conclusions contrary to those reached by the agency. That is not the applicable standard; in reviewing a protest against an agency's evaluation of proposals, we examine the record to determine whether the agency's judgment was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. Ostrom Painting & Sandblasting, Inc., B-285244, July 18, 2000, 2000 CPD ¶ 132 at 4. A protester's mere disagreement with the agency's judgment in its determination of the relative merit of competing proposals does not establish that the evaluation was unreasonable. C. Lawrence Constr. Co., Inc., B-287066, Mar. 30, 2001, 2001 CPD ¶ 70 at 4. Here, we find that the agency's evaluation of ViaSat's technical proposal was reasonable and consistent with the evaluation criteria.

ViaSat lists 10 enhancements that it contends it offered but which the agency allegedly failed to recognize and credit as strengths in ViaSat's technical proposal. In particular, ViaSat refers to what it denominates as: (1) significantly enhanced data rate; (2) dynamically modifiable modem; (3) MF-TDMA modem; (4) burst-rate flexibility; (5) flexible network topology; (6) automatic QPSK/BPSK switching; (7) simultaneous connectivity; (8) graceful degradation; (9) bandwidth on demand; and (10) split beam operation. Supplemental Protest at 2.

The agency report establishes that each of the putative enhancements was in fact recognized by the agency, and several were credited as strengths, while in other instances the features were not considered to warrant favorable consideration either because they did not represent any advantage beyond the solicitation requirements, or because the purported advantages were nothing more than unsubstantiated assertions. For example, the allegedly "significantly enhanced data rate" consists of nothing beyond ViaSat's compliance with the solicitation requirements, coupled with an assertion that higher speed was possible under ideal clear sky conditions that were not consistent with the model set forth in the solicitation, and therefore were not considered a strength by the evaluators. AR at 27.

In fact the record reflects that ViaSat proposal was credited with minor strengths for its proposed MF-TDMA modem, burst rate flexibility, graceful degradation and bandwidth on demand, and with a major strength for flexible network topography. AR at 27-32. Thus, ViaSat was given evaluation credit in the form of evaluated strengths for many of the features for which it now claims it did not receive credit; as to the rest, the agency reasonably evaluated the alleged enhancements as either not adding material value to the proposal, or as insufficiently substantiated to warrant credit. ViaSat's disagreement with these assessments does not provide a basis to question an evaluation which on its face is reasonable and consistent with the

solicitation criteria. ViaSat's objections to the other technical evaluation areas in both its and Titan's technical proposal similarly reflect ViaSat's strong disagreements, and are similarly without merit.

As it did in the past performance context, ViaSat also asserts that the agency failed to afford it meaningful discussions with respect to its technical proposal. In the same manner as with the past performance issues, IFNs were provided with respect to the agency's numerous concerns, and ViaSat responses were considered, but were not found to completely alleviate all of the agency's concerns. As explained above, the fact that the agency did not agree that ViaSat's explanations were completely sufficient does not provide any basis to conclude that the agency failed to conduct meaningful discussions, notwithstanding ViaSat's disagreement in this regard.

COST REALISM

ViaSat contends that the agency failed to conduct an adequate cost realism analysis, objecting particularly to the fact that no upward cost adjustments were made to Titan's proposal. Where an agency evaluates proposals for award of a cost-reimbursement contract, an offeror's proposed estimated costs are not considered controlling, since these estimated costs may not provide valid indications of the final actual costs that the government is required, within certain limits, to pay. Advanced Communication Sys., Inc., B-283650 et al., Dec. 16, 1999, 99-2 CPD ¶ 3 at 5. Accordingly, a cost realism analysis must be performed when a cost-reimbursement contract is contemplated. FAR § 15.404-1(d)(2). A cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's proposed 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 technical proposal. FAR § 15.404-1(d)(1). Because the agency is in the best position to make this cost realism determination, our review is limited to determining whether its cost evaluation was reasonably based and not arbitrary. Kalman & Co., Inc., B-287442.2, Mar. 21, 2002, 2002 CPD ¶ 63 at 9. The fact that no adjustments are made to any offeror's proposed costs provides no basis to object to the determination if it otherwise satisfies this standard. PAE Gmbh Planning and Constr., B-250470, Jan. 29, 1993, 93-1 CPD ¶ 81 at 6-7. Thus ViaSat's underlying basis for objection, by itself, is without merit.

Here, in performing his cost realism analysis, the cost factor chairman reviewed the cost proposals himself and relied as well on input from technical evaluators and from the Defense Contract Audit Agency (DCAA). The technical evaluators reviewed and evaluated Titan's proposed labor category mix, labor hours, types and quantities of materials and other direct costs and concluded that the proposal was adequate based on the technical approach and that no adjustments were warranted to the efforts as proposed. A similar review was conducted and the same conclusion was reached with respect to ViaSat's proposed costs. In this respect, agencies are

not required to conduct in-depth cost analyses to verify each and every proposed cost element in conducting a cost realism evaluation, ManTech Envtl. Tech, Inc., B-271002 et al., June 3, 1996, 96-1 CPD ¶ 272 at 8, providing the agency does not engage in disparate treatment in evaluating the respective cost proposals. DynCorp Int'l, LLC, B-289863, B-286863.2, May 13, 2002, 2002 CPD ¶ 83 at 10. Here, both proposals were subjected to the same scope of review in this respect.

The cost factor chairman also sought and received DCAA cost realism input on Titan's cost proposal and that of its subcontractors. DCAA reviewed and accepted the proposed direct labor rates, indirect expense rates, cost of money factors direct material costs and other direct costs and found them without exception.[2] This information was orally conveyed to the cost factor chairman during the course of the procurement. DCAA subsequently also provided a final summary document, after the award determination had been made, detailing these recommendations. ViaSat argues that this summary document establishes that no cost analysis was conducted before award. However, the record establishes that the document was merely a confirmation of what had previously been conveyed, compiled in final form, and thus provides no basis for objection.

AWARD DETERMINATION

ViaSat primarily objects that the alleged evaluation flaws resulted in an arbitrary and unreasonable decision to award to Titan, and further contends that the award decision was not supported by any tradeoff analysis. Protest at 34. Agency officials have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation results. Where a solicitation provides for a best value procurement and, as here, emphasizes the significantly greater importance of technical factors over cost, an agency has considerable discretion to award to an offeror with a higher technical rating and higher evaluated cost. Systems Integration & Dev., Inc., B-271050, June 7, 1996, 96-1 CPD ¶ 273 at 6. Further, there is no requirement that an agency attach specific dollar values to the benefits associated with a technically superior proposal. WPI, B-288998.4, B-288998.5, Mar. 22, 2002, 2002 CPD ¶ 70 at 10. As to ViaSat's contention that no tradeoff analysis was

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[2]DCAA verified the proposed current indirect rates for Datron, a Titan subcontractor, but was unable to confirm the accuracy of Datron's use of that same rate for future years because Datron had not prepared budgetary forecasts for the entire period of performance. The cost factor chairman concluded that there was no reason to adjust this rate upward since it was common practice to utilize such current rates in the evaluation of future year rates. In this regard, ViaSat had similarly failed to prepare future budgetary forecasts, and had used its current rates, and no adjustments had been made to ViaSat's cost. In view of this similar treatment of both offerors, we see no basis for objection in this regard.

conducted, the SSA's award determination, summarized above provides that analysis. In view of Titan's documented superiority in all of the non-cost areas, the SSA's conclusion that Titan's greater likelihood of successful performance of the RFP requirements outweighed the associated cost premium is unexceptionable. Because we have concluded that ViaSat's objections to the evaluation are without merit, the alleged evaluation flaws provide no basis to question the cost/technical tradeoff and resulting award determination.

The protest is denied.[3]

Anthony H. Gamboa
General Counsel

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[3]ViaSat has raised a substantial number of other collateral issues and arguments, each of which we have considered and find without merit.