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United States General Accounting Office
Washington, DC 20548

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# Decision

**Matter of:** Northrop Grumman Technical Services, Inc.; Raytheon Technical Services Company

**File:** B-291506; B-291506.2; B-291506.3; B-291506.4

**Date:** January 14, 2003

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Raymond M. Saunders, Esq., Lt. Col. Daniel K. Poling, Maj. Leslie A. Nepper, Maj. Kateni T. Leakehe, Maj. Robert B. Neill, Capt. Timothy J. Ryan, and Capt. Peter G. Hartman, Department of the Army, for the agency.
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**DIGEST**

1. In a negotiated procurement contemplating award based upon a cost/technical tradeoff, protest that the agency abandoned the point-scoring feature of an evaluation tool identified in the solicitation is denied, where the point scoring feature was not required by the award evaluation scheme announced in the solicitation and the agency's use of an adjectival evaluation comported with the solicitation's "best value" scheme.

2. Protest asserting that protester's proposal was unreasonably downgraded for low proposed staffing level is denied where the agency reasonably determined, consistent with the solicitation, that the proposed staffing level, although acceptable, was low and posed performance risks.

3. Protest objecting to agency's cost evaluation and assessment of weaknesses and risk in protester's technical proposal relating to the protester's proposed personnel

based upon the cost evaluation analysis of protester's labor rates is denied, where the agency's assessment was reasonably based upon information provided by protester in its proposal and during discussions, and the solicitation provided that the agency may consider the cost evaluation in the evaluation of technical proposals.

4. Protest challenging awardee's "excellent" past performance rating is denied where, in evaluating the past performance of a joint venture, the agency, consistent with the solicitation, reasonably considered the past performance of the awardee's joint venture members and major subcontractor.

**DECISION**

Northrop Grumman Technical Services, Inc. and Raytheon Technical Services Company protest the award of a contract to Kwajalein Range Services, LLC (KRS),[1] under request for proposals (RFP) No. DASG60-01-R-0002, issued by the U.S. Army Space and Missile Defense Command for the operation of the U.S. Army Kwajalein Atoll/Ronald Reagan Ballistic Missile Defense Test Site (also known as the Reagan Test Site (RTS)) in the Republic of the Marshall Islands. The protesters challenge the agency's evaluation of proposals and source selection decision.

We deny the protests.

BACKGROUND

The RTS is located in the Kwajalein Atoll in the Marshall Islands and is approximately 2,136 nautical miles west-southwest of the Hawaiian Islands. The Kwajalein Atoll is a crescent loop of coral islands (including Kwajalein and Roi-Namur Islands), whose attendant reef encloses the world's largest lagoon (an area of 1,100 square miles). The RTS, whose missions include missile and missile defense testing and space observation, identification, and tracking, is operated as a government-owned, contractor-operated installation, under the direction of the Army. RFP, Performance Work Statement (PWS) § 1, ¶¶ 1.3, 1.4; Raytheon Hearing Exh. No. 9, "Master Plan: United States Army Kwajalein Atoll/Kwajalein Missile Range" (Jan. 2001), at 1-1.

The RFP, issued November 2, 2001, provides for the award of a single or multiple cost-plus-award-fee/award-term contract(s) for the operation of the RTS for up to 15 years. The contract requirements include both integrated range engineering

[1] KRS is a joint venture of Bechtel National, Inc. and Lockheed Martin, with Chugach Development Corporation as a major subcontractor.

support and test site logistics services.[2] Offerors were informed that, in the area of integrated range engineering support services, the agency had a continuing need for "research, development, test and evaluation . . . efforts for on-site [that is, on-island] and off-site engineering, technical support services, and materials required to operate, maintain, analyze, and modify the RTS instrumentation and related support systems." PWS § 1, ¶ 4.1. The RTS systems to be maintained, operated, and supported include radar, telemetry, optics, mission control centers, communications, and rocket launching equipment. See PWS §§ 14-18. Included in the RTS systems to be supported is the Kiernan Reentry Measurements Site (KREMS), which consists of four instrumentation radar systems and is stated to be the government's most sophisticated and important research and development radar site.[3] Contracting Officer's Statement (Nov. 8, 2002) at 4. The logistics services to be furnished under the contract include all aspects of base maintenance and support, including in the areas of aviation, automotive, marine, utilities (i.e., electrical power generation, water and wastewater systems), facilities engineering, housing, community services (i.e., dental, medical, educational, and religious services), food services, merchandising, fire prevention and protection, supply, and management. PWS §§ 3-13.

Offerors were informed that the technical programs to be performed under the contract would

> require precision operations by highly-skilled and specially-trained technical personnel. Likewise, the construction, logistics support, and security and law enforcement activities at [the RTS] require a cadre of professional specialists, technicians, and trade personnel.

PWS § 1, ¶ 4.2. The PWS also stated that

> [a] streamlined, highly effective, and cost efficient contractor organization is imperative. The costs associated with relocating personnel to [the RTS], coupled with the limited housing available and other infrastructure limitations, make it extremely important that each

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[2] For nearly 10 years until the award of a contract to KRS, Raytheon had performed support service for the RTS under separate contracts for integrated range engineering support and for logistics services.

[3] The KREMS radar systems "are very complex, very sophisticated, one-of-a-kind radars . . . [and] each [radar system has] its own character, its own software, its own hardware, and required a dedicated set of engineers to operate and maintain it." Hearing Transcript (Tr.) at 90-91.

> contractor hold staffing to the minimum essential.[4] Accordingly, it is important that each contractor recruit personnel with a high level of expertise and experience and who are multi-talented to the extent feasible. Although the isolation and substandard housing exacerbate the problem of recruiting personnel, a reasonable and realistic benefits/compensation package is an effective means of overcoming these obstacles. Accordingly, it is important that the source selection and/or negotiation process ensure that potential contractors' proposed wages and other benefits be realistic, as well as reasonable, and will be effective in both recruiting and retaining personnel. Cross training and cross utilization of personnel to the maximum extent practicable is a desirable operational objective. The proposed acquisition requires the contractor to provide personnel in many varied disciplines to perform the functional areas of the PWS. Employees will include unskilled and semi-skilled laborers, technicians, skilled tradesmen, professionals, and managers. Maximum effective utilization of the indigenous Marshallese population and training to enhance and facilitate the advancement of Marshallese employees into managerial/supervisory positions are important short and long[-]term goals.

PWS § 1, ¶ 6.6.

The RFP provided for award on the basis of a cost/technical tradeoff, specifically informing offerors that the agency might select a proposal whose total evaluated probable cost was "not necessarily the lowest, but whose technical and/or management proposals are sufficiently more advantageous to the government so as to justify the payment of additional costs." RFP amend. 1, § M, at 63. The RFP also stated that it would employ "alternate source selection procedure[s] for highly complex [research development test and evaluation] requirements," and that these alternate procedures included conducting detailed negotiations with one source or

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[4] Offerors were informed that government-furnished family and unaccompanied-personnel housing was available, but that the "substandard housing available, particularly for unaccompanied personnel, will adversely impact a contractor's ability to recruit and retain qualified personnel." PWS § 1, ¶ 6.1. In this respect, the RFP also stated that for personnel in the integrated range engineering area there were only 119 housing units available, a reduction of 66 units from the prior contract. RFP amend. 2, § H, at 8.

sources after a source selection had been made. Id. The RFP identified the following evaluation criteria:

| Areas | Factors | Subfactors |
|---|---|---|
| Technical | | |
| | Integrated range engineering | |
| | | Mission support |
| | | Instrumentation maintenance |
| | | Instrumentation modifications |
| | | Communications |
| | | RTS support |
| | Logistics support | |
| | | Public works |
| | | Supply and transportation |
| | | Marine services |
| | | Automotive services |
| | | Aviation services |
| | | Merchandise services |
| | | Food services |
| | | Community services |
| | | Medical and dental services |
| | | Education services |
| | | Environmental |
| Management | | |
| | Past performance/experience | |
| | Management plan | |
| | Marshallese training and employment | |
| | Subcontracting plan | |
| Cost | | |
| | Cost realism | |
| | Total evaluated probable cost | |

Id. at 60-62. The technical area was stated to be "very much more important" than the management area, which was stated to be slightly more important than the cost area. Together the technical and management areas were stated to be "extremely more important" than the cost area.[5] Id. at 62.

[5] Within the technical area, integrated range engineering was stated to be more important than logistics support. Within the management area, past performance/experience was stated to be slightly more important than the management plan, which was slightly more important than Marshallese training and employment, which was more important than the subcontracting plan. RFP amend. 1, § M, at 62.

With respect to the cost area, offerors were informed that, under the cost realism factor, the proposal would be

> analyzed to assess the likelihood that the technical and management approaches proposed can be accomplished at the cost proposed. This is a measure of the programmatic risk based on the technical/management approach. The results of the cost realism assessment will be applied to the evaluation of the technical and management areas to aid in assessing the offeror's understanding of the magnitude and complexity of the contract requirements.

Id. at 61. The RFP also warned that

> Cost realism is a very important consideration in the assessment of the programmatic risk associated with the Technical and Management Areas. Poor cost realism may result in a lower evaluation of the technical and management areas. Offerors submitting cost proposals that are so unrealistically high or low as to preclude a reasonable chance of being selected for award will be excluded from the competitive range.

Id. at 63. The RFP also provided for the evaluation of proposals to determine the most probable cost to the government of successfully completing the contract "using the technical and management approaches proposed." Id. at 62.

The RFP's proposal preparation instructions required offerors to prepare proposals using Tabular Format (TF!) software.[6] Offerors were also informed that

> Both Technical Area sub-factors and the [management plan and Marshallese training/employment subfactors] under the Management Area will be evaluated using the Tabular Format System (TF!)™.

Id. at 60. In addition, the PWS was structured in a TF! format. Among the TF! spreadsheets required to be completed was the Specific Resource Allocation Listing (SRAL) spreadsheet, which would identify, among other things, the offeror's

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[6] TF!, a software system developed by Acquisition Services Consulting Group, Inc. (ASC), uses Microsoft Excel spreadsheets to assist in the preparation and evaluation of proposals. See <www.ascginc.com>. In a pre-solicitation industry briefing attended by the protesters, the agency explained the use of the TF! software, and it was suggested that offerors obtain training in its use from ASC. Northrop Grumman's Comments, attach. A, Declaration of Northrop Grumman's Capture Manager, at 6.

proposed labor hours, staffing, and skill mix per year to satisfy the PWS requirements. RFP amend. 1, § L, at 44-48.

Offerors were required to propose in their cost proposals a direct labor rate for "wage year 1" for each proposed labor category. This proposed labor rate was required to be escalated based upon an RFP-provided escalation rate for each year following "wage year 1." Id. at 38-42.

By the February 25, 2002 closing date, the Army had received proposals from Raytheon, Northrop Grumman, and KRS. Initial technical proposals were evaluated by the agency's source selection evaluation board (SSEB), and the evaluation results reported by the source selection advisory committee (SSAC) to the source selection authority (SSA), as follows:

| | | **Raytheon** | **Northrop Grumman** | **KRS** |
|---|---|---|---|---|
| **Technical** | | | | |
| | Integrated range engineering | Good | Acceptable | Acceptable |
| | Logistics support | Good | Acceptable | Acceptable |
| **Management** | | | | |
| | Past performance/experience | Acceptable | Acceptable | Good |
| | Management plan | Acceptable | Acceptable | Acceptable |
| | Marshallese training/employment | Acceptable | Acceptable | Acceptable |
| | Subcontracting plan | Good | Acceptable | Acceptable |

Agency Report, Tab 7c, SSAC Briefing, at 14-15. All three proposals were included in the competitive range. With respect to Raytheon's proposal, the SSEB expressed concern that Raytheon's proposed labor rates were low, and stated that although no probable cost adjustment was made in Raytheon's initial proposed costs, the firm's rates were considered a minor cost risk, which the agency would address during discussions. Agency Report, Tab 7c, SSEB Initial Evaluation Report, at 10.

The Army conducted three rounds of discussions with the offerors and received oral presentations. During the first round of discussions, the agency inadvertently disclosed all of the agency's technical questions for each firm to the offerors as a group. To mitigate the disclosure, the Army received certifications from each of the offerors promising that the firms would not use in subsequent submissions and proposal revisions any information regarding another offeror's proposal that was acquired as a result of the inadvertent disclosure. Contracting Officer's Statement (Nov. 8, 2002) at 75. In addition, offerors were cautioned that

> The government will carefully scrutinize subsequent submissions/revised proposals to assure compliance with these certifications. Any offeror found to have violated such certification will be eliminated from the competition.

RFP amend. 3, § M, at 3.

Final revised proposals were received and evaluated as follows:

| | | Raytheon | Northrop Grumman | KRS |
|---|---|---|---|---|
| **Technical** | | **Acceptable** | **Acceptable** | **Acceptable** |
| | Integrated range engineering | Acceptable | Acceptable | Acceptable |
| | Logistics support | Acceptable | Acceptable | Acceptable |
| **Management** | | **Acceptable** | **Acceptable** | **Exceptional** |
| | Past performance/experience | Acceptable | Acceptable | Exceptional |
| | Management plan | Acceptable | Acceptable | Good |
| | Marshallese training/employment | Acceptable | Acceptable | Exceptional |
| | Subcontracting plan | Good | Acceptable | Acceptable |
| **Total proposed cost** | | **$2.364 billion** | **$2.055 billion** | **$2.661 billion** |
| **Total evaluated probable cost** | | **$2.378 billion** | **$2.084 billion** | **$2.685 billion** |

Agency Report, Tab 7r1, SSEB Final Evaluation Report, at 18-20, 28.

KRS's proposal was the highest technically rated by the SSEB, primarily based upon KRS's exceptional management approach. KRS's proposal was also evaluated at the high end of acceptable under the integrated range engineering factor. Id. at 5.

Raytheon's proposal was also assessed as being at the high end of acceptable under the integrated range engineering factor. This, however, was a lower technical rating than that received by Raytheon's proposal in the initial technical evaluation, and reflected the evaluators' concern with Raytheon's proposed labor rates. Specifically, the SSEB found that

> A majority of the proper technical skill mixes can probably be hired at the proposed rates, but the competency and retention levels would be questionable and these personnel would most likely require additional training. Further, expected high turnover of personnel increases training requirements and the risk of degraded system performance in the face of non-nominal test incidents.

Id. at 10.

Northrop Grumman's proposal received the lowest technical ratings. Its proposal received an "overall medium acceptable rating," under the integrated range engineering factor, and was otherwise viewed as merely acceptable. Among a number of weaknesses assessed in Northrop Grumman's proposal was the SSEB's concern that the firm's staffing levels were too low and reflected a heavy reliance upon cross-utilization, cross-training and matrixing of personnel to accomplish the contract tasks. Id. at 8-10, 15-16.

The SSA was briefed on the SSEB's evaluation results by the SSAC and reviewed the SSEB's Final Evaluation Report. The SSA accepted the SSEB's conclusion that KRS had submitted the superior technical proposal, and noted that KRS offered several

> very significant strengths includ[ing] a good understanding of most phases of mission support, good corporate reach-back resources, a superior project control system allowing real-time access to cost estimates and billing data, highly applicable overall experience with past performance success verified by previous customers, a proven contract transition process, realistic wages and benefits structured for retention of existing employees and recruitment of future employees, and an exceptional Marshallese Training and Employment Plan which responds directly to the spirit and intent of the RFP.

Agency Report, Tab 8, Source Selection Decision, at 5.

With respect to Raytheon's proposal, which the SSA considered to be the second highest-rated offer, the SSA recognized Raytheon's "very significant strengths," which "include understanding of each phase of mission support, an attractive instrumentation maintenance and modification approach, and a systems engineering support approach that primarily utilizes on-site personnel for quick response." The SSA also noted, as a "very significant strength," that Raytheon, as the incumbent contractor, had "received high performance ratings in [the firm's] current [integrated range engineering] performance evaluations." Id. at 7. However, the SSA found Raytheon's proposal had several "very significant weaknesses," including

> a wage structure and work-hour proposal that will severely restrict the ability of the offeror to recruit and retain high quality engineering and technician personnel and a proposed personnel benefits package that reduces current employees['] benefits and eliminates some current benefits for new-hires, thereby further exacerbating the situation. The effect of these weaknesses is considered sufficient to degrade the technical capability of the contractor to perform the PWS requirements to a level that would insure success in both normal and abnormal circumstances. Further, the offeror's past performance as reported by previous customers indicates problems in controlling overhead costs that severely affected the award fee earned. Lastly, [Raytheon's] Marshallese Training and Employment Plan provides for very significant initial cuts in Marshallese employment and is not consistent with the RFP's objective to maximize the number of Marshallese employees. The risk inherent in these rapid initial cuts is that the reduction could create labor and political problems.

Id. at 7-8. The SSA noted that, although Raytheon had

> proposed sufficient overall [integrated range engineering] and Logistics [services] hours, an in-depth analysis of [Raytheon's] cost proposal indicates that [the firm is] also proposing a large percentage of new hires to replace their current Off-Island hire personnel [that is, personnel hired off-island to work at the RTS], especially in the [integrated range engineering] area, but also in the Logistics Area.

Id. at 8. In this respect, the SSA found that Raytheon had "made it clear to the government [during discussions] that [the firm's] philosophy in this regard was to reduce the current skill levels and therefore wages/benefits as part of their plan to transition [the RTS] from an R&D [research & development] environment to more of an O&M [operation & management] environment." Id. at 10.

The SSA noted that Northrop Grumman's proposal had received generally acceptable ratings with few evaluated significant strengths. The only "very significant strength" evaluated in Northrop Grumman's proposal was the firm's instrumentation maintenance approach, which involved the innovative cross-utilization of personnel to achieve an efficient organization. "Very significant weaknesses" evaluated in Northrop Grumman's proposal "included lack of experience in management of large, remote, multi-activity contracts such as the current effort, which risks misallocation of resources due to a lack of understanding of the significance of each element of the contract, and their apparent complete lack of understanding of airfield operations." Id. at 6. The SSA also noted that Northrop Grumman's proposed staffing level was "judged to be only minimally adequate to meet contract requirements." Id. at 9.

The SSA concluded that KRS's proposal offered the best value to the government. The SSA found that "[h]aving the right mix and number of people is key to mission success at [the RTS]; and KRS has the best overall proposal for recruiting and training the high-tech workforce needed for optimum performance at [the RTS]." In this regard, the SSA found that KRS's "[b]etter wages, benefits and human resource systems" gave KRS a clear advantage over Raytheon in this area, and that KRS's much higher proposed labor hours, more robust staffing in the technical areas, and superior Marshallese training and employment plan gave KRS a clear advantage over Northrop Grumman in this area. Id. at 9. Although Raytheon and Northrop Grumman had lower evaluated probable costs than KRS, the SSA noted that the protesters' cost proposals were less realistic than KRS's and that "[l]esser cost realism on the part of [Raytheon] and [Northrop Grumman] means a greater risk of cost overruns and degraded technical performance for these offerors." Id. at 11. In particular, the SSA noted that the cost factor was significantly less important than the technical and management areas. "The reason for this relative order of importance among [the] evaluation criteria is the critical importance and extremely high cost of the customer programs supported by [the RTS]." Id. In short, the SSA concluded that KRS's superior technical proposal and more realistic cost estimates

were worth the cost differential between KRS and the other offerors. Id. at 11-12. Award was made to KRS, and these protests followed.

ANALYSIS

Tabular Format

The protesters first complain that the Army changed the evaluation scheme announced in section M by using the TF! point score feature to establish the competitive range, and then "abandoning" it thereafter. According to the protesters, point scores are a crucial aspect of the TF! software, and a unique feature of the TF! point-scoring system employed here was that it provides the same number of points for exceptional and good ratings.[7] Therefore, the protesters argue, TF! induced them to maximize points by striving only to achieve good ratings while containing costs, and discouraged them from striving for exceptional ratings. The protesters argue that they were further induced to take this approach by the TF! vendor, ASC, during a pre-solicitation industry briefing and various TF! training sessions. As a result, the protesters allegedly eliminated costly items from their proposals that could have raised their technical ratings because they believed this would have had no effect on their overall scores.

For the reasons discussed below, we do not find the protesters' arguments persuasive.

TF! is a proposal formatting tool with many informational, organizational, and evaluation features. Among other things, TF! permits an agency to align proposals with the numerous PWS sections and PWS-related evaluation criteria, assign adjectival ratings to these criteria, and convert these adjectival ratings to numerical scores for informational or evaluation purposes. An agency can modify the many features of TF! and tailor its use to a particular procurement or agency need. See Agency Report, Tabs 5d-5f, TF! Training Materials; see also Tab 10, Declaration of ASC Vice President (in ASC's training classes, participants are "always" informed

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[7] The TF! scoring feature converts adjectival ratings to scores. Using TF!, each PWS section and line item (which correspond to evaluation factors in section M of the RFP) can be assigned a maximum number of points based on relative importance. Where a factor receives either a good or an exceptional rating, that factor receives 100 percent of the available points. Similarly, acceptable ratings receive 80 percent of available points, questionable ratings receive 40 percent, and unacceptable ratings receive 0 percent. Agency Report, Tab 7g3b, TF! Rating Sheet. The actual scoring scheme employed by the Army and the number of points assigned to each PWS section were not disclosed to the offerors. See Raytheon's Comments, attach. I, Declaration of Raytheon's Base and Range Systems Director, at 5.

"that agencies that use [the TF!] will almost always tailor [the TF!] generic model to meet their specific needs").

As previously noted, the RFP specified that "Technical Area sub-factors and the [management plan and Marshallese training/employment subfactors] under the Management Area will be evaluated using the [TF!]." RFP amend. 1, § M, at 60. Here, the Army used TF! throughout the evaluation as an "organizational and informational tool," but customized its use of TF!. That is, the Army used TF! to align proposals to the PWS sections, line items, and PWS-related evaluation criteria; to assign adjectival ratings to these areas; and to generate issues for discussion. The agency also used the TF! scoring feature, along with other information gathered, to make a rough comparison of proposals for establishing the competitive range. The Army did not, however, use the scoring feature during the final phase of the evaluation, other than as background information. In completing its best-value analysis, the Army relied, instead, on its substantive findings, adjectival ratings, and narrative evaluations. Contracting Officer's Statement (Nov. 8, 2002) at 33-35.

A procuring agency has broad discretion to determine the evaluation scheme it will use. Once offerors are informed of the criteria against which their proposals will be evaluated, however, the agency must adhere to those criteria or inform all offerors of any significant changes to them. Marquette Med. Sys., Inc., B-277827.5, B-277827.7, Apr. 29, 1999, 99-1 CPD ¶ 90 at 5-6.

Contrary to the protesters' assertions here, the Army did not change, or abandon, its evaluation scheme or selection criteria. Instead, the agency used TF! to evaluate the technical and management area factors in a manner that was consistent with the RFP's best-value scheme. Specifically, the RFP announced only that the Army would use TF! in the evaluation of proposals. It did not dictate how TF! would be used or limit the agency's flexibility to customize its use to this procurement.[8] Nor did the RFP mandate the use of TF! scoring, or any other particular TF! feature, for that matter.

Furthermore, although there was an RFP provision mandating the use of TF! as an evaluation tool, this solicitation provision must be read considering the RFP as a whole and in a manner that gives effect to all of the solicitation provisions. See Brown & Root, Inc. and Perini Corp., a joint venture, B-270505.2, B-270505.3, Sept. 12, 1996, 96-2 CPD ¶ 143 at 8. In this regard, the RFP required a "best value"

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[8] The protesters suggest that the RFP should have more specifically explained the use of TF!, that the Army should have disclosed how it intended to use TF!, and/or that the RFP is unclear or ambiguous in this regard. However, these allegations concern an alleged defect in the RFP that should have been raised prior to the proposal due date. These post-award complaints are therefore untimely under our Bid Protest Regulations. 4 C.F.R. § 21.2 (a)(1) (2002).

analysis, which contemplated that the proposals would be qualitatively evaluated under the technical and management areas, which were considered "extremely more important" than cost. RFP amend. 1, § M, at 62. The agency's use of the TF!, without the feature that numerically equated good ratings to exceptional ratings, to assess the qualitative differences between competing proposals was entirely consistent with the RFP's evaluation scheme.

The protesters nevertheless claim that their proposal approaches were influenced by instructions ASC provided at the pre-solicitation industry briefing and TF! training sessions, where ASC allegedly told them to maximize TF! points rather than strive for exceptional ratings. We find, however, that any reliance on such guidance allegedly provided at these meetings would not have been reasonable.

At the beginning of the industry briefing, the contracting officer specifically instructed offerors to rely solely on the RFP and to ignore any contradictory information provided by ASC or any other outside source. Agency Report, Tab 4b, Contracting Officer's Industry Briefing Statement, at 4-5. Offerors were further instructed that the TF! training sessions were "general and not specifically for this acquisition," and that the Army was "not involved with the TF! contractor" in the conduct of these sessions. Agency Report, Tab 4a2, Commerce Business Daily Notice (Mar. 15, 2002); see also Agency Report, Tab 10, Declaration of ASC Vice-President (ASC always cautions attendees that training is based on generic model and that agency will tailor). When the RFP was issued--which was after the industry briefing and most of the training had occurred--it specified that the Army would undertake a best-value analysis, with the technical and management factors "extremely more important" than cost. Nothing the Army did or said at any point during the procurement altered that approach. Even if we were to believe that ASC somehow encouraged offerors to adopt a particular proposal approach--and we are not convinced of this--offerors were amply cautioned that the RFP controlled. If the protesters chose a proposal approach contrary to the RFP, they did so at their peril, inasmuch as ASC had no authority to change the terms of the RFP.[9] See Digital Imaging Acquisition Networking Assoc., Inc., B-285396.3, Nov. 8, 2000, 2000 CPD ¶ 191 at 5 n.6 ("To the extent the protester believed that something said at the pre-proposal conference misled the firm, oral advice, even if given, does not operate to amend the solicitation or otherwise legally bind the agency").

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[9] The protesters, intervenor, and the Army have all provided our Office with affidavits from the various attendees of these sessions and from ASC. These affidavits paint very different pictures as to whether ASC actually said or did anything to encourage offerors to maximize points and not strive for exceptional ratings. However, even accepting the protesters' version of events, we find that any reliance by the protesters on such statements would have been unreasonable for the reasons discussed above.

In sum, we find the Army's use of the TF! unobjectionable because it was consistent with the RFP.

Evaluation of Northrop Grumman's Staffing

As noted above, the agency considered Northrop Grumman's proposed staffing level, which was significantly lower than that proposed by KRS, to be a significant weakness. Northrop Grumman's low staffing level was one of the discriminators cited by the SSA in his cost/technical tradeoff analysis.

Northrop Grumman complains that the PWS required offerors to reduce on-island staff (including the Marshallese workforce) and to employ cross-training and cross-utilization of personnel to the maximum extent practicable. In this regard, Northrop Grumman argues that the Army's announced policy objective for the RTS was to reduce personnel and costs associated with running the Kwajalein Missile Range, citing the "Kwajalein Missile Range Users Conference: Direct Cost Reimbursable (DCR) Briefing (2 May 2001)," which Northrop Grumman asserts discusses "the need to remedy Kwajalein's 'death spiral'" caused by the high levels of RTS costs. Northrop Grumman's Comments at 37. Northrop Grumman complains that the Army's favorable evaluation of KRS's proposed higher staffing levels, including maintaining the current level of Marshallese employment, demonstrates that the agency used an unstated evaluation criterion--that is, maintenance of the current contract staffing levels.

Based upon our review of the record, we do not think the Army's evaluation conclusions were unreasonable or were based upon unstated criteria. It is true that the PWS informed offerors of the need to provide a "streamlined, highly effective, and cost efficient contractor organization" and that "[c]ross training and cross utilization of personnel to the maximum extent practicable is a desirable operational objective." PWS § 1, ¶ 6.6. The PWS did not, however, announce a requirement that offerors should propose staffing levels below that of the incumbent contract, as Northrop Grumman apparently contends.[10] Nor does the PWS or RFP require offerors to maintain the current contract staffing levels. Rather, offerors were requested to propose their own technical approaches and staffing levels to perform the contract requirements. See RFP amend. 1, § L, at 44-48; § M, at 60 (proposals to

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[10] With respect to the proposed Marshallese workforce, the PWS informed offerors that pursuant to agreements with the Republic of the Marshall Islands the RTS would seek

> to foster the economic development of the [Republic of the Marshall Islands]. A primary tool to accomplish this objective is to provide employment for Kwajalein Atoll indigenous residents when feasible.

PWS § 1, ¶ 6.5.

be evaluated under the technical area for, among other things, the amount of personnel proposed to perform each PWS section/line item).

To perform the RTS contract requirements, offerors would need a broad range of personnel in a variety of disciplines. Instrumentation and equipment at the RTS, as well as the technical missions to be supported, are highly sophisticated and technically complex. In addition, the logistics support functions encompass the broad range of support activities. Thus, offerors were specifically informed that

> The technical programs conducted at [the RTS] require precision operations by highly-skilled and specially-trained technical personnel. Likewise, the construction, logistics support, and security and law enforcement activities at [the RTS] require a cadre of professional specialists, technicians, and trade personnel.

PWS § 1, ¶ 4.2. However, the amount of staffing required to perform the PWS requirements was left to the offerors' judgment, as was their proposal approach. Offerors were informed that, in assessing the relative merits of the offerors' proposed approaches (which would include the offerors' proposed staffing levels), the Army would give "extremely greater weight" to the technical and management areas than to cost. RFP amend. 1, § M, at 62.

Here, the Army concluded from its review of Northrop Grumman's proposal that the firm's staffing level, although at an acceptable level, was low and posed performance risks. The agency also expressed concern with Northrop Grumman's proposed cross-training and cross-utilization of personnel, because (although the Army, as expressed in the PWS, supported cross-training and cross-utilizing personnel) Northrop Grumman simply did not propose enough staff to allow the effective and optimal use of cross-training and cross-utilization.[11] Based on our review, we do not find the agency's determination in this regard to be unreasonable or inconsistent with the RFP.[12] Although Northrop Grumman disagrees with the Army's judgment,

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[11] Northrop Grumman claims that its proposal was unequally evaluated as compared to KRS's proposal, which also proposed use of multi-tasked, cross-trained personnel. In contrast to Northrop Grumman's proposal, the agency found that KRS's proposed cross-utilization and cross-training was not a weakness because, unlike Northrop Grumman's proposal, KRS proposed what the agency viewed as a sufficient number of skilled personnel to allow the effective use of cross-training and cross-utilization of personnel to perform the required tasks. Based on our review, we find this determination was reasonable and not based upon unequal evaluation.

[12] We also note that Northrop Grumman was informed by the Army during discussions that the agency considered the firm's proposed staffing levels to be inadequate for various PWS requirements. See, e.g., Agency Report, Tab 7e2b, Northrop Grumman's Response to 1st Round Discussion Questions, at 2-5 (political

(continued...)

the protester's mere disagreement does not establish that the agency's evaluation conclusion was unreasonable.[13] See UNICCO Gov't Servs., Inc., B-277658, Nov. 7, 1997, 97-2 CPD ¶ 134 at 7.

Evaluation of Raytheon's Proposed Staffing

Raytheon challenges the Army's evaluation of its cost proposal, complaining that the Army improperly downgraded Raytheon's technical proposal based upon the agency's unreasonable assessment of Raytheon's proposed labor rates. Specifically, Raytheon asserts that the Army "mistakenly treated the 'Composite Hourly Rates,' which [Raytheon] employed to estimate direct labor costs, as representing an annual average of the actual wages [Raytheon] would pay each year." Raytheon's Post-Hearing Comments at 1-2. This alleged error resulted, Raytheon argues, in the Army's faulty determination that Raytheon proposed to pay lower wages and/or hire new, less-skilled and less-experienced employees as its contract performance approach. In this regard, Raytheon notes that the Army initially praised Raytheon's technical proposal for the firm's proposed staffing and planned transition from "an R&D to an O&M environment." Raytheon argues that, to the extent that the agency believed that Raytheon's cost proposal did not propose realistic costs for the

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(...continued)
and morale implications of firm's proposed reduction of Marshallese workforce); Tab 7i2b, Northrop Grumman's Responses to 2nd Round Discussion Questions, at 2-3 through 2-6, 5-4 through 5-5, 5-9 through 5-10. Northrop Grumman chose not to increase its proposed staffing levels in response to the discussions.

[13] Northrop Grumman complains that the agency's evaluation of the firms' proposed staffing levels and cost was per se unreasonable because the Army did not prepare or use an independent government estimate for the procurement. Northrop Grumman has cited no statutory or regulatory requirement, nor are we aware of any, that an agency must prepare an independent government estimate in a negotiated procurement for the award of a cost-reimbursement contract based upon full and open competition. We have found reasonable an agency's cost realism evaluation of the awardee's proposed costs, although the agency did not compare the awardee's costs to the government's estimate; rather, the agency was permitted to employ various types of analyses in determining an offeror's realistic cost to perform. See, e.g., ELS Inc., B-283236, B-283236.2, Oct. 25, 1999, 99-2 CPD ¶ 92 at 10. The case cited by the protester, Satellite Servs., Inc., B-286508, B-286508.2, Jan. 18, 2001, 2001 CPD ¶ 30, where no independent government estimate was used in the evaluation, does not support the proposition that an agency must always prepare and use an independent government estimate in evaluating proposals under a cost-reimbursement procurement; in that case, unlike the case here, we sustained the protest because the agency had not reasonably analyzed the competitors' differing staffing levels.

performance of the contract, the Army should have upwardly adjusted Raytheon's proposed costs in the agency's total evaluated probable cost evaluation and not downgraded Raytheon's technical proposal.

The Army responds that downgrading Raytheon's technical proposal, rather than adjusting the firm's probable costs, was appropriate because the agency reasonably determined that Raytheon's proposed costs reflected the firm's "low-cost/less-skilled approach" to performing the contract, which was rated acceptable. Army's Post-Hearing Comments at 3-4. In this regard, the agency states that it provided Raytheon with numerous opportunities during three rounds of discussions to explain its low composite labor rates, and that the firm chose to "defend its proposed wages/benefits by insisting that higher wages/benefits were not necessary under [the firm's] philosophy of transitioning [the RTS] from a[n] [R&D] environment to more of an [O&M] environment." Contracting Officer's Statement (Nov. 8, 2002) at 20-21. The Army further notes that Raytheon, as the incumbent contractor, has historical labor costs reflecting the firm's past performance, but that Raytheon's composite labor rate estimates were substantially below the firm's historical costs. See Tr. at 677 (testimony of the Army's cost/price analyst).[14] The agency concluded that Raytheon could recruit "inexperienced, minimally qualified workers" at Raytheon's proposed labor rates, "but could not recruit and retain the kind of skilled and experienced workforce which would assure high-quality technical performance." Contracting Officer's Statement (Nov. 8, 2002) at 21. In short, the Army found that Raytheon's proposed approach was acceptable, but that its use of lower-skilled, junior employees posed performance risks.

The crux of this dispute is that Raytheon and the Army do not agree as to what Raytheon's proposal reflects for contract performance. That is, Raytheon argues that it proposed a technical approach that relied upon the firm's current, incumbent workforce and proposed minimal changes among its higher-skilled staff. The Army argues, however, that reading Raytheon's technical, management and cost proposals together with the firm's responses during discussions indicated to the Army that Raytheon proposed replacing many of its higher-skilled, more expensive staff with more junior, less expensive staff as part of the firm's R&D to O&M transition strategy.

In reviewing protests against allegedly improper evaluations, it is not our role to reevaluate proposals. Rather, our Office examines the record to determine whether the agency's judgment was reasonable and in accord with the RFP criteria. Abt Assocs., Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223 at 4. It is an offeror's obligation to submit an adequately written proposal for the agency to evaluate. United Defense LP, B-286925.3 et al., Apr. 9, 2001, 2001 CPD ¶ 75 at 19.

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[14] The agency's cost/price analyst was the Army's lead cost evaluator and a member of the SSEB.

From our review of the record, including the parties' arguments and hearing testimony, we find, as explained below, that the Army reasonably concluded that Raytheon had proposed an approach to performing the contract that was based upon lowering the firm's overall labor rates and that this approach posed performance risks. In order to appreciate the nature of the Army's concern, we must first discuss some details of Raytheon's proposal, the discussions, and the Army's evolving evaluation of Raytheon's personnel.

We first note that, apart from key personnel, offerors did not propose the actual personnel the firm would use in contract performance. Rather, the RFP required offerors to propose staffing positions grouped into labor categories, and offerors were free to define their own position titles, descriptions and labor categories.[15] Also, as indicated above, the RFP required offerors to provide in their cost proposal an estimated labor rate for "wage year 1" for each of the firms' proposed labor categories, and to escalate that labor rate over 15 years, based upon the escalation factors provided in the RFP. In response to this requirement, Raytheon proposed composite labor rates for each of its proposed labor categories.

Before discussions were conducted with the offerors, the agency's cost/price analyst reviewed audit reports of the Defense Contract Audit Agency (DCAA) for each of the offerors.[16] See Tr. at 515. Raytheon had been asked by DCAA to explain the basis of its proposed composite labor rates, and Raytheon informed DCAA that its "proposed direct labor rates are based on a [deleted]."[17] Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, attach. 1, DCAA Audit Report (Mar. 29, 2002), at 2. The cost/price analyst also reviewed Raytheon's responses to

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[15] Thus, for example, Raytheon proposed various engineering labor categories such as systems engineer I, systems engineer II, senior systems engineer I, and senior systems engineer II, see generally Agency Report, Tab 6e, Book 3, Raytheon Cost V Final Tabular Format Submission, SRAL Staffing Input, while KRS proposed categories such as systems engineer I, systems engineer II, systems engineer III, systems engineer IV, and systems engineer leader. See generally Agency Report, Tab 6a, KRS Final TF! Spreadsheet, Staffing Input.

[16] The Army requested that DCAA review the firms' proposed direct and indirect cost rates and other direct costs. Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, at 3.

[17] The salary structure tables for various labor categories and geographic locations were compiled by Raytheon's cost proposal team prior to the drafting of the technical proposal. Tr. at 260-62.

DCAA regarding the firm's labor rates, in which Raytheon informed DCAA:

> The compensation structure developed for this contract is based on [the] [deleted] representing the [deleted] for the jobs slotted into a given range. However, [the] [deleted] represents the [deleted] wage for an incumbent who is fully competent in the job. Utilizing the [deleted] percentile as the hire salary for the majority of our new hires allows us to pay a competitive wage while at the same time recognizing that the new hire is not yet fully competent in the specific task for which they are being hired.
>
> New hire codes were established for the majority of the positions proposed by taking the [deleted] percentile of the appropriate grade range. In some cases where the current salaries of the incumbents were [significantly above the] [deleted] of the range was proposed. In general, new hire rates are established at a level that is lower than the current rates of the incumbents. As mentioned in a previous response[,] this is consistent with our compensation strategy of establishing the new hire rate below the [deleted], which represents the appropriate rate for a fully competent incumbent.

Army Hearing Exh. No. 5, Raytheon's Response to DCAA (Mar. 8, 2002). Similarly, in another response to DCAA, Raytheon stated:

> A given labor category can encompass a number of levels, but the new hire would normally be a person at the lower grade level. This does not mean that we would only hire new people at the low grade, [deleted].

Army Hearing Exh. No. 5, Raytheon Response to DCAA (Mar. 18, 2002).

In reviewing Raytheon's cost proposal, the agency's cost/price analyst noted that Raytheon had proposed composite labor rates for a number of labor categories that were equal to Raytheon's stated new hire rates. Tr. at 557. Moreover, the cost/price analyst found that Raytheon's new hire rates "were often lower than the lowest paid current employee that [Raytheon] listed for a particular skill category." Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, at 3. The cost/price analyst also found that the [deleted] percentile rate Raytheon mentioned to DCAA for the firm's new hires actually applied only to new hires that were hired "on-island" (that is, primarily spouses and children of employees based on the island). Raytheon's proposed new hire rates for employees hired off-island to work at the RTS were actually at the [deleted] of Raytheon's salary range table, considerably below the [deleted] percentile. The cost/price analyst also noted that Raytheon had proposed stationing a number of engineers in Huntsville, Alabama and Lexington, Massachusetts. She found that Raytheon's proposed labor rate for engineers to be employed in Massachusetts was based upon the [deleted] rate (new

hire rate) of the salary range table for Alabama, although, due to the prevailing market conditions, the agency believed that the salary range for engineers to be employed in Massachusetts would normally be much higher than the salary range in Alabama.[18] Tr. at 547-49.

Given this evaluation and Raytheon's response to DCAA, the Army asked Raytheon in the first round of discussions to explain the firm's statement to DCAA that new hires were not yet fully competent for the specific task for which they were hired, and to address the fact that the agency's historical information indicated that in the past new hires were paid "more in the range of the [deleted] [percentile] to [deleted] salary range to attract new hires." Raytheon responded by explaining that "not yet fully competent" reflected Raytheon's judgment that new hires "would not yet have the relevant direct, hands-on experience that renders them fully competent." Agency Report, Tab 7f2b2, Raytheon's Response to 1st Round Discussion Question No. 27. Raytheon did not address the agency's concern that the new hire rates were not consistent with the agency's historical data for Raytheon's labor costs at the RTS.

The cost/price analyst testified that she was "bothered" by Raytheon's response because Raytheon's new hire and composite rates appeared to be below the firm's historical costs and Raytheon had failed to respond to the agency's request for an explanation of its experience in this regard. Tr. at 556-58. The cost/price analyst then compared Raytheon's proposed composite labor rates with the rates proposed by KRS and Northrop Grumman. The cost/price analyst found that KRS's and Northrop Grumman's proposed labor rates were generally higher than Raytheon's. Tr. at 563-68; Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, attach. 4.

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[18] Raytheon's senior financial analyst admitted that the market wage for an engineer based in Massachusetts would be higher than that for an engineer in Alabama. Tr. at 445. Raytheon's Kwajalein technical manager testified, when asked if he would be surprised if Raytheon's cost proposal used salary tables for Alabama to compute the estimated salary range for an engineer in Massachusetts, as follows:

> Surprise would be one way to express that. Shock or disbelief would be another. Because Lexington, Massachusetts has a higher cost of living. Our geographic salary tables--I can't quote them to you, sir, but I do know that Huntsville is lower than the northeast.

Tr. at 153-54.

The cost/price analyst shared Raytheon's discussion response and her analysis with the technical members of the SSEB.[19] Tr. at 562-63. The lead technical evaluator for integrated range engineering reviewed the cost/price analyst's comparison of the three firms' proposed labor rates, and testified that he found, based on his own significant engineering experience and specific experience at the RTS, that many of Raytheon's rates for the labor categories for the integrated range engineering tasks were low. Tr. at 817-19.

The Army conducted further discussions with Raytheon as follows:

> [Question No. 1:] It appears that you are proposing all new hire rates for engineers other than managers (especially note Sections 15, 14-1, 14-3, 14-4, 15, and 18-1.)[20] Please confirm that you plan to hire all new personnel for those areas. If that is not the plan, explain why you priced these categories at the new hire rate rather than use actual wage rates.
>
> Response: Raytheon does not plan to hire all new engineering personnel in the sections noted. After careful review of our rate calculations related to this question, we acknowledge that in a majority of the cases current employees will fill these positions. We have recalculated the proposed rates for our engineering positions by adding the actual rates of employees to the composite rate calculations.
>
> In order to accurately price our technical approach in this area, Raytheon Human Resources established a hiring control point (rate) for each engineering category based on skill requirements and complexity. In certain cases, our existing employees exceed these skill requirements associated with our technical approach (transition from R&D to O&M approach). In these cases, Raytheon will make every effort to relocate the affected personnel to various engineering opportunities within the Company. In the cases where employees exceeded the hiring control point by more than [deleted]%, these employees['] labor rates were excluded from the composite rate calculations.

Agency Report, Tab 7j2c, Raytheon's Response to 2nd Round Discussion Question No. 1.

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[19] The SSEB had initially evaluated Raytheon's proposed staffing levels and skill mix as "good" based upon its review of the technical and management proposals.

[20] These sections of the PWS relate to integrated range engineering services.

This response indicated to the Army that Raytheon's proposed technical approach was to reduce its estimated costs by proposing to hire less-experienced, lower-paid employees. Specifically, the cost/price analyst noted that, although Raytheon stated it would fill the specific sections identified in the discussion question with a "majority" of current employees, this indicated that only something more than half of the positions might be incumbent personnel. Furthermore, although Raytheon recalculated its proposed rates for seven labor categories to reflect actual labor rates of incumbent personnel, the firm continued to offer composite rates that were equal to new hire rates for numerous other engineering categories for the identified PWS sections,[21] and did not include the rates of some of the highest paid incumbent engineers in calculating its composite rates. Also troublesome to the cost/price analyst was Raytheon's statement that, in keeping with the firm's proposed transition from an R&D environment to an O&M one, the firm contemplated removing from the RTS contract those Raytheon employees whose skill level exceeded the firm's proposed technical approach. Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, at 15-17.

Although Raytheon now argues that its transition from an R&D to an O&M environment would take effect gradually over 15 years, the Army found that Raytheon's proposal did not demonstrate such a gradual transition. For example, the agency found that there was little proposed change in Raytheon's level of staffing for integrated range engineering throughout the proposed 15 years of contract performance. See Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, at 24; Tab 21, Declaration of Army's Lead Technical Evaluator for Integrated Range Engineering, at 5-6; see also Tr. at 180-81 (Raytheon's lead integrated range engineering technical proposal manager testified that Raytheon "pretty much steady-stated the staff, from year 1 [in the Specific Resource Allocation Listing]").

The Army's belief that Raytheon's proposed transition would begin immediately with contract award was also consistent with Raytheon's statements during the oral presentation regarding its proposed transition to an O&M environment at which Raytheon stated:

> Historically the range was staffed with numerous engineers to support modifications as well as missions. Transforming the range from an R&D to an O&M environment is consistent with the concept of operations and our staffing approach, enabled by [the RTS], whereby

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[21] This included labor categories such as electrical engineers I and II, senior electrical engineers I and II, mechanical engineers I and II, senior software engineer I, principal software engineer, senior systems engineer I, field engineer I, and multi-discipline engineer I.

> the modernized sensors can be maintained effectively by fewer, less skilled personnel. So we want to perform the bulk of the O&M activities on site, move a majority of the [improvement and modernization] modification activities off site for all of the benefits I described there. So it really is just a change in demographics of the on site and off site staffing.

Supplemental Agency Report at 59; Raytheon Oral Presentation Videotape (May 21, 2002).

Also consistent with the Army's understanding that Raytheon was proposing an immediate R&D to O&M transition, Raytheon stated, for the seven labor categories for which Raytheon recalculated the composite labor rate, that it established a "hiring control point,"[22] and where labor costs for current employees exceeded the hiring control point by more than [deleted] percent, those employees were excluded from the "wage year 1" composite labor rate calculations. This also confirmed for the agency that, even though Raytheon planned to use incumbent personnel in a number of its proposed labor categories, Raytheon was not proposing its higher paid personnel, but would provide less-experienced, lower-skilled personnel. Tr. at 580-83.

After the second round of discussions, the Army's cost/price analyst performed a number of additional analyses of Raytheon's rates, including comparisons of Raytheon's new hire rates with its actual rates for current employees and comparisons of Raytheon's new hire and current rates with the rates proposed by KRS and Northrop Grumman. See Supplemental Agency Report, Tab 13, Declaration of Army's Cost/Price Analyst, at 18. The cost/price analyst found that Raytheon's proposed rates were generally lower than those proposed by the other offerors. Id. at 22.

The Army conducted another round of discussions with Raytheon, asking the firm yet again about its "new hire rate" philosophy. Specifically, the Army asked Raytheon:

> When you lose a higher paid employee in, for example, the engineering category, and you look to replacing that employee, are you proposing to hire a similarly qualified person **at approximately the same rate**, or will you hire an engineering employee at your proposed new hire rate?

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[22] Although not defined in its discussion response, Raytheon's "hiring control point" reflects the firm's new hire rate for a particular labor category. Tr. at 289 (testimony of Raytheon's senior financial analyst).

Agency Report, Tab 7n1, 3rd Round Discussion Question No. 1 (emphasis in original). Raytheon responded that "qualified personnel will be hired at approximately the same rate of pay when necessary." Agency Report, Tab 7n2, Raytheon Response to 3rd Round Discussion Question No. 1. The qualified nature of this response also indicated to the Army that Raytheon anticipated hiring less-expensive replacement employees, except "when necessary."[23]

Turning to the merits of the protest, we first disagree with Raytheon's contention that the agency could use the results of its cost evaluation only in evaluating the offerors' probable costs of performance and could not use the results in assessing the merits of the offerors' technical proposals. As mentioned above, the RFP required that offerors ensure that information contained in the cost proposal was "consistent with the information contained in the other proposal volumes and the TF! Software spreadsheets."[24] RFP amend. 2, § L, at 12. Additionally, the RFP specifically informed offerors that the agency could consider the results of its cost evaluation in the evaluation of technical and management proposals, and warned that "[p]oor cost realism may result in a lower evaluation of the technical and management areas." RFP amend. 1, § M, at 63. In similar cases, we have found that an agency may make both a cost realism adjustment for unrealistic proposed personnel rate costs and assess the impact the proposal of unrealistic rates could have upon technical performance. See, e.g., Source One Mgmt., Inc., B-278044.4, B-278044.6, June 12, 1998, 98-2 CPD ¶ 11 at 7-8; Serv-Air, Inc.; Kay and Assocs., Inc., B-258243 et al., Dec. 28, 1994, 96-1 CPD ¶ 267 at 10-11. Furthermore, we have found that an agency may not reasonably award a cost-reimbursement contract to an

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[23] Raytheon's proposal was based upon a [deleted]-percent attrition rate, which accurately reflects the firm's historical attrition rate in the performance of the incumbent contract. The Army wondered why Raytheon's historic labor costs do not already reflect the costs of new hires, given this historical attrition rate. Raytheon's senior financial analyst testified at the hearing, however, in response to a question on cross-examination, asking why the firm's normal attrition rate did not take into account senior engineers leaving the island or retiring, that:

> The only thing different, and it's only a slight difference, is the normal attrition rate would assume on the balance you had to replace employees that attritted with comparably qualified and comparably, competent, if you will--competency levels of the levels you're replacing. And the situation on [Kwajalein] today, you've got a group of overqualified engineers.

Tr. at 425.

[24] The RFP required offerors to provide sufficient cost or pricing information within the TF! spreadsheet format and cost explanation to allow the agency to evaluate the bases for the offerors' proposed costs. RFP amend. 2, § L, at 12-14.

awardee, whose cost proposal evidenced a different technical approach than that presented in the technical proposal, without considering the technical approach reflected in the cost proposal. See TRW, Inc., B-254045.2, Jan. 10, 1994, 94-1 CPD ¶ 18 at 8-9.

Raytheon complains that the Army's cost/price analyst misunderstood the firm's composite labor rates, which Raytheon argues are no more than a mere cost estimating tool. We find that the cost/price analyst accurately understood that Raytheon's proposed composite labor rates were not actual proposed wages, but were the firm's estimated costs for direct labor. See, e.g., Tr. at 504-05, 746. Indeed, the rates were submitted in response to the RFP requirement to provide an estimated labor rate for "wage year 1" for each proposed labor category, and ultimately formed the basis for Raytheon's proposed costs to perform this contract. Although these proposed labor rates are cost estimates (as is the case for all contents of cost proposals submitted under solicitations for cost-reimbursement contracts), we agree with the Army that the rates were required to reflect the offeror's best, good-faith estimate of its anticipated wage rates, inasmuch as these were the basis for the firm's overall proposed costs. In any case, as indicated above, these rates were the subject of repeated discussions, yet Raytheon did not further explain these rates as mere cost estimating tools that had nothing to do with Raytheon's technical proposal.[25]

Raytheon also complains that the agency's cost/price analyst's alleged misunderstanding of Raytheon's composite rates was based upon "her utter disregard of [Raytheon's] salary range tables . . . which set forth [Raytheon's] salary ranges for employees under the new contract." Raytheon's Post-Hearing Comments at 41. Contrary to Raytheon's contention, these tables do not reflect Raytheon's cost proposal for the new contract, but merely the firm's estimated range of possible labor rates for the various labor categories. In this regard, the salary range tables were prepared prior to the development of Raytheon's technical proposal and staffing plan. Tr. at 260-61. These tables encompass the range of rates that could be paid in a given labor category. Although the salary range tables were used in the development of Raytheon's composite labor rates, the tables do not themselves identify the anticipated quality (that is, experience and skill level) of personnel used to calculate the composite labor rates. Thus, in our view, the cost/price analyst appropriately focused on the proposed composite rates in performing her analysis.

Raytheon nevertheless argues that its technical proposal clearly informed the Army that Raytheon would be providing its incumbent workforce with minimal change. In this regard, Raytheon notes that its proposal identified by name more than

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[25] If Raytheon had disclosed during discussions that the basis for its proposed cost did not reflect its technical approach, the agency would have been required to resolve this matter before it could make award based on this approach. See TRW, Inc., supra.

50 "essential personnel" for performance of the integrated range engineering and logistics support tasks, which Raytheon asserts should have demonstrated to the Army that Raytheon was proposing its incumbent engineer and technical workforce. See Raytheon's Proposal, vol. IV, Management Proposal, Final Submission, at IV-54, figure 2.2-7.

We do not agree that Raytheon's technical and management proposals clearly indicated that the firm would be providing its incumbent workforce in performance of the contract. Although it is true that Raytheon stated in a number of places that it anticipated minimal changes and would fill positions with its incumbent workforce, see, e.g., Raytheon's Proposal, vol. IV, Management Proposal, Final Submission, at IV-126 ("[w]e anticipate a minimal requirement for new hires"), its proposal stressed that the firm's approach was based upon its proposed transition from an R&D to an O&M environment and was replete with references to a changing workforce. For example, in the executive summary to its proposal, Raytheon stressed that it would "capitalize on the new environment and contract vehicle to structure a support approach that materially reduces cost and enhances quality." See Raytheon's Proposal, vol. II, Executive Summary, Final Submission, at II-1. Also, in its Executive Summary, Raytheon identified a number of staffing initiatives that would allow the firm to satisfy the need for change and transformation. See, e.g., id. at II-1 through II-3. In its management proposal, Raytheon stated that "[t]ransition activities will begin immediately on contract award." Raytheon's Proposal, vol. IV, Management Proposal, Final Submission, at IV-126.

With regard to the more than 50 individuals that were identified as "essential personnel" in Raytheon's management proposal, we do not agree that this indicated to the Army that Raytheon would be providing its incumbent workforce. Not only is this group of employees a small number of the overall workforce to be provided, but also Raytheon's proposal does not specifically state that the firm will use the named individuals in performing the contract.

Reading Raytheon's entire proposal together with the firm's responses to the discussion questions, as identified above, we find that the Army could reasonably conclude that Raytheon's estimated composite labor rates reflected a technical approach that would provide the Army with less-experienced, less-skilled personnel. That is, these rates, applicable from the beginning of the contract, were less than those currently paid, which reasonably was understood to mean that less-experienced, less-skilled personnel would be employed. As discussed above, the agency repeatedly brought its concern to Raytheon during discussions in an effort to understand the basis for Raytheon's labor rates and how they may affect Raytheon's technical approach. However, Raytheon did not, during these discussions, clearly state what level of personnel it intended to provide, or credibly state that it intended only a gradual transition from R&D to O&M at its proposed personnel rates, such that it would continue to offer the same high level of personnel as are currently on-site; to the contrary, the discussion responses confirmed and

exacerbated the agency's concerns.[26] Based on the foregoing, the agency reasonably concluded that the low labor rates were indicative of what personnel would be used in Raytheon's technical approach, which the agency reasonably determined was less desirable than an approach employing a more experienced and skilled workforce.

Although Raytheon has offered numerous explanations throughout the development of the protest record (such as, for example, its explanation that its "wage year 1" labor rates were based upon an algorithmic formula [deleted]), these additional explanations were not provided to the Army during the evaluation of proposals, despite the agency's repeated requests during discussions. In this regard, Raytheon provided the declaration of a cost expert, who performed his own analysis of Raytheon's cost proposal and disagreed with the Army's cost evaluation. See Raytheon's Supplemental Protest, attach. A, Declaration of Cost Expert. Raytheon's cost expert's analysis is based upon his own assumptions, including that Raytheon's proposed changes in engineering staff would occur over a 10-year transition period. Id. at 23-24. As noted above, we found that the Army reasonably found that Raytheon's proposal indicated that transition from an R&D environment to an O&M environment would begin immediately.

Furthermore, these explanations, set out in Raytheon's supplemental protest and comments, are themselves inconsistent with the arguments and declarations Raytheon provided in its initial protest, in which Raytheon stated that, based upon Raytheon's recognition that the "highly-specialized [R&D] function of the Kwajalein technical mission had matured to an [O&M] function, requiring less advanced technical and scientific support," Raytheon proposed less senior and less expensive engineers. Raytheon Protest at 16. Also, Raytheon's senior financial analyst (the person identified as being primarily responsible for the firm's cost proposal strategy) stated in a declaration attached to Raytheon's initial protest:

> In the case of wages and benefits, we made some changes through the process, but always ensured that our cost proposal remained as accurate as possible in relation to our technical proposal, and reflected our technical approach.

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[26] Raytheon complains that it was not apprised during discussions of the agency's concern that Raytheon's proposed transition from an R&D to an O&M environment would be effective immediately. The Army's concern about Raytheon's transition schedule relates to the Army's concerns with Raytheon's proposed composite labor rates, which the Army raised during discussions. In any event, the record shows that the Army also specifically questioned Raytheon about its proposed transition. See, e.g., Raytheon Oral Presentation Videotape (May 21, 2002).

> The perceived risk concern related to low wages in the engineering categories directly contradicts the otherwise [initial] "Good" rating in the [integrated range engineering] technical area. [Raytheon] proposed lower grade engineering labor categories to accomplish the [PWS] in [integrated range engineering] in accordance with our strategy of transition from an R&D environment to an O&M environment.
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> [I]n the debriefing the Government referenced a long list of specific names of current engineers that [Raytheon] excluded from the wage calculations in the lower wage categories. The names cited were all specifically noted in our proposal and in our current contract as residing in the higher, more skilled labor categories not used in the technical approach that was rated [initially] "Good." The [integrated range engineering] rating adjustment is thus in direct conflict with the technical evaluation, which endorsed the proposed use of the lower skill mix labor categories.

Raytheon's Protest, attach. E, Declaration of Senior Financial Analyst, at 1, 4-5. Although inconsistent with its subsequent protest arguments, these statements in Raytheon's initial protest are consistent with the Army's conclusion that Raytheon was proposing less-senior and less-experienced engineers than its incumbent workforce.

In sum, the Army reasonably found, based upon Raytheon's proposal and discussion responses, that Raytheon's low estimated rates reflected the firm's proposed performance approach, and reasonably took this into account in the technical evaluation.[27]

Raytheon's and KRS's Proposed Personnel Benefits

Raytheon contests the Army's evaluation of its proposed personnel benefits. Alleging disparate treatment, Raytheon contends that the Army unreasonably found

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[27] Raytheon also complains that KRS's cost proposal was not subjected to the same "level of scrutiny" that Raytheon's proposed labor rates received. See Raytheon's Supplemental Comments at 56-58. We have reviewed the record and do not find that the firms were treated unequally, as Raytheon asserts. The fact is that Raytheon proposed composite labor rates that were below what the agency expected, and KRS did not. On this basis, the agency conducted discussions with Raytheon and performed additional cost analyses to understand the basis for Raytheon's proposal. We have no basis to object to the Army's actions in this regard.

weaknesses and risk in Raytheon's proposed benefits, but did not similarly find fault with KRS's allegedly inferior benefits.

The record shows that KRS adopted a single-tier approach where all employees received similar benefits, whereas Raytheon adopted a multi-tiered approach offering different levels of benefits for different categories of employees. The record also shows that the Army performed a detailed comparison of the benefit plans (Agency Report, Tab 7k1i, Benefits Comparison Table), fully considering the offerors' proposed benefits, including those Raytheon alleges are superior to KRS's (e.g., [deleted]). The Army provided Raytheon with credit for these allegedly superior benefits, but it also considered their relative importance. Furthermore, the Army noted other areas where Raytheon's proposed benefits were viewed as inferior to KRS's. Contracting Officer's Statement (Nov. 27, 2002) at 42-44. In our view, the Army reasonably concluded that

> there are areas where [Raytheon's] benefits are preferable (although not always available to all of their employees) and other areas where KRS has preferable benefits. The agency, in a reasoned comparison and judgment, determined that KRS'[s] benefits provided the most good for the most people at [Kwajalein]; whereas [Raytheon's] reduction in current benefits when coupled with their reduced wages created potential recruitment and retention problems with corresponding risk to technical performance.

Id. at 45. We also find that the Army reasonably concluded that KRS's proposed uniform benefits were better for "overall island morale and community harmony" on Kwajalein--a small and close-knit island community--and would pose less risk to recruitment and retention.[28] Id. at 39, 45.

Raytheon nevertheless complains that KRS's benefits were not compared to the current benefits of the incumbent workforce, as were Raytheon's. Specifically, Raytheon complains that it was assessed a weakness because it proposed reductions to the current benefit plan, whereas KRS was not assessed a weakness, even though it similarly proposed reductions in benefits from those available to the current workforce. However, the Army did not find a weakness in Raytheon's plan based solely on benefit reductions; rather, the Army determined that this reduction, coupled with Raytheon's proposed low wages, posed a risk to recruitment and retention. Agency Report, Tab 7r1, SSEB Final Report at 12. Since KRS offered more realistic wage rates, and also offered a more uniform benefits approach, the

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[28] Raytheon argues that its multi-tiered approach actually encourages job satisfaction and retention. However, this argument reflects only its disagreement with the Army's conclusions and does not render them unreasonable. See UNICCO Gov't Servs., Inc., supra, at 7.

Army reasonably determined that these same risks to recruitment and retention did not exist.

We find that, on balance, the Army reasonably concluded that KRS offered the better personnel benefits plan.

Past Performance/Experience

The protesters make various contentions concerning the evaluation of their and KRS's past performance and experience.

Specifically, Northrop Grumman challenges the Army's evaluation of KRS's past performance. KRS received an "excellent" rating for past performance based on the experience of each of the members of its joint venture team as well as its major subcontractor. Northrop Grumman contends that it was improper for the Army to attribute each member's past performance to the entire joint venture, and argues that the Army should have considered a member's or subcontractor's past performance only for portions of work that the member or subcontractor was proposed to perform. We disagree.

An agency may properly consider the relevant experience and past performance history of the individual joint venture partners in evaluating the past performance of the entire joint venture, so long as doing so is not expressly prohibited by the RFP.[29] MVM, Inc., B-290726 et al., Sept. 23, 2002, 2002 CPD ¶ 167 at 4. Here, the RFP does not limit the Army's consideration of past performance to a particular joint venture member, but instead contemplates that the Army will evaluate relevant contracts and subcontracts that are similar in nature to the PWS. RFP amend. 1, § L, at 51.

Northrop Grumman's complaint that the individual members lack experience directly relevant to the PWS section they were proposed to perform is also without

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[29] The two cases cited by Northrop Grumman, MCS of Tampa, Inc., B-288271.5, Feb. 8, 2002, 2002 CPD ¶ 52, and Strategic Res., Inc., B-287398, B-287398.2, June 18, 2001, 2001 CPD ¶ 131, in support of this protest contention are distinguishable. Neither case involves the evaluation of joint ventures, nor do they limit consideration of past performance as espoused by Northrop Grumman. Both cases stand only for the unremarkable proposition that a key consideration in determining whether a subcontractor's past performance should be considered is whether the experience is reasonably predictive of the offeror's (i.e., prime contractor's) performance. Measured against this standard, the Army's analysis appears reasonable here. Bechtel, Lockheed Martin, and Chugach are major participants in performing the KRS contract. The agency was well within its discretion in considering the past performance of these participants, as the past performance of each was a reasonable predictor of KRS's performance.

merit.[30] For example, Northrop Grumman contends that Bechtel lacks relevant overseas experience. However, Bechtel's past performance record reveals at least five major multi-discipline, multi-location, multi-activity contacts--three of which were performed overseas or included substantial overseas components. KRS's Revised Proposal, vol. IV, Management Proposal, at 2.1-15 through 2.1-17. Additionally, Lockheed Martin and Chugach have successful overseas experience, which the Army properly considered.[31] Id. at 2.1-9; see MVM, Inc., supra, at 4.

Northrop Grumman also contends that its own overseas experience was not reasonably considered because the Army allegedly disregarded positive comments (made during the initial evaluation) about Northrop Grumman's experience at [deleted]. The record does not support this contention. After review of the positive evaluator comments concerning Northrop Grumman's contract in [deleted], the Army posed the following discussion question:

> It is difficult to deduce from information provided, the exact extent of requirements you have met for the recruitment, retention and management of a skilled workforce in foreign and remote locations. Can you provide additional details as to the quantity, locations, and types of labor Northrop Grumman has provided under similar government contracts over the past five years.

Agency Report, Tab 7e2b, Northrop Grumman's Response to 1st Round Discussion Question No. 1. Based upon Northrop Grumman's response, the Army was able to ascertain that, of the experience specifically referenced in Northrop Grumman's proposal, no more than [deleted] personnel were at [deleted], and there were fewer than [deleted] total personnel at [deleted] overseas locations. Agency Report, Tab 7r1, SSEB Final Report at 25; Contracting Officer's Statement (Nov. 27, 2002) at 12. Thus, it became apparent that the [deleted] effort and Northrop Grumman's other overseas experience were relatively small in comparison to the proposed effort

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[30] KRS provided past performance information relating to each member's area of responsibility. See KRS's Revised Proposal, vol. IV, Management Proposal, at 2.1-1 and 2.1-15.

[31] Raytheon also challenged the evaluation of KRS's past performance and experience, complaining that the Army failed to consider prior financial difficulties of Chugach. The Army responds that those difficulties occurred prior to the date requested for relevant past performance information. Since that time, Chugach has been fiscally sound and financially prosperous, as illustrated by a number of trade articles and a March 2002 DCAA audit report (which the Army reviewed). Furthermore, the Army reviewed relevant past performance surveys, which indicated that Chugach had an outstanding past performance record. Raytheon has not substantively responded to this explanation.

here. As noted by the Army, overseas experience was only part of a larger PWS requirement to demonstrate "[r]ecruitment, retention and management of a skilled workforce in foreign and remote locations." RFP § L, at 111. Therefore, despite the positive comments in the initial evaluation concerning [deleted], the Army reasonably determined that Northrop had "only limited experience with the recruitment, retention and management of a skilled workforce in foreign and remote locations." Agency Report, Tab 7r1, SSEB Final Report at 25. We see no basis to object to this evaluation.

Raytheon complains, with regard to its evaluation under this factor, that it did not have an opportunity to address adverse past performance information relating to a contract that Raytheon is currently performing for the Department of the Navy in Guam. Specifically, Raytheon points to a Navy past performance survey criticizing Raytheon's performance during a performance period on this contract from July 2001 to January 2002, and contends that it was not provided a meaningful opportunity to respond to the Navy's concerns regarding lack of innovation and responsiveness. The Army explains that it was not required to discuss this information with Raytheon because the firm had previously been afforded an opportunity to respond to the Navy's concerns. See Federal Acquisition Regulation (FAR) § 15.306(d). In this regard, the Army references Raytheon's response in a Contractor Performance Appraisal Report (CPAR), as well as information provided in Raytheon's proposal regarding this contract.[32] Raytheon disagrees that its response to the CPAR satisfies the Army's obligation to discuss this matter because the CPAR covers a period of performance that preceded the Navy survey.

We do not address the merits of Raytheon's arguments here because Raytheon has not demonstrated any reasonable possibility of prejudice as a result of this alleged error. Raytheon provided an affidavit describing the information it allegedly would have provided the Army had the Army held discussions concerning the Guam contract. Raytheon's Comments, attach. K, Declaration of Raytheon's Senior Vice President. However, the information contained in this affidavit is not materially different from that contained either in the CPAR or in Raytheon's proposal. Since Raytheon failed to demonstrate how discussions would have improved its competitive standing, we deny this ground of protest. See Microeconomic Applications, Inc., B-258633.2, Feb. 14, 1995, 95-1 CPD ¶ 82 at 10-11.

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[32] The Army also notes that Raytheon receives performance reviews from the Navy as part of its quarterly award fee evaluations to which Raytheon had the opportunity to respond.

Evaluation of Northrop Grumman's Proposed Helicopter

Northrop Grumman objects to its evaluated weakness concerning the helicopters it proposed, and to the Army's pre-award decision to provide helicopters to KRS as government-furnished property (GFP) for the entire contract period.

The RFP provided that the Army would furnish four existing UH-1 rotary-wing aircraft (i.e. helicopters) as GFP through fiscal year 2004.[33] However, because these helicopters are very old, continued support (for example, availability of parts) is uncertain. Therefore, the RFP included a requirement that offerors propose commercial rotary-wing aircraft sufficient to satisfy the PWS requirements, along with sufficient support to maintain both the UH-1 aircraft and the proposed commercial fleet. RFP § L, at 90.

All offerors proposed commercial helicopters. After completing an extensive comparative evaluation, the Army concluded that both KRS and Raytheon proposed commercial helicopters that were more rugged and better suited to the harsh Kwajalein environment than the helicopter proposed by Northrop Grumman, which the agency found to be technically complex and likely to be difficult to maintain in the harsh, corrosive Kwajalein environment. Agency Report, Tab 7r1, SSEB Final Report at 14. Offerors were warned by the PWS that the "highly corrosive maritime conditions [at the RTS] are a major factor in the level and nature of maintenance required." PWS § 1, ¶ 6.3. Although Northrop Grumman disagrees with the agency's judgment, it does not provide evidence establishing that the agency's evaluation was unreasonable.[34]

After KRS was selected for award, but before the contract was executed, the Army received assurances that short-term logistical support would be available for the UH-1 helicopter at least through 2004. Therefore, the Army identified one additional UH-1 helicopter as GFP. Because there was some possibility that longer-term support would be available, the Army also decided to include the five UH-1 helicopters in the contract as GFP for the life of the contract. For administrative ease, the Army planned to implement its transition from UH-1 to

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[33] The Army UH-1 rotary-wing aircraft, also known as the "Huey," is best known for its Vietnam service.

[34] Because offerors' proposals were evaluated against the same evaluation criterion, we do not think that offerors were treated disparately, as Northrop Grumman contends.

commercial helicopters through the use of the Government Property clause.[35] Contracting Officer's Statement (Nov. 27, 2002) at 17. Therefore, the final contract provides for five UH-1 helicopters as GFP for the life of the contract, rather than four UH-1 helicopters until FY 2004 as stated in the RFP.[36] KRS Contract at 43.

Northrop Grumman complains that this contract change demonstrates that the Army knew prior to award of the contract that its actual needs had changed, and the Army was therefore required to amend the RFP and evaluate proposals on the basis of the agency's changed needs.

Where an agency's requirements change after a solicitation has been issued, it must issue an amendment to notify offerors of the changed requirements and afford them an opportunity to respond. FAR 15.206(a); Symetrics Indus., Inc., B-274246.3 et al., Aug. 20, 1997, 97-2 CPD ¶ 59 at 6. An agency must amend the solicitation to reflect a significant change in the government's requirements, even after the submission of final proposal revisions, up until the time of award. See United Tel. Co. of the Northwest, B-246977, Apr. 20, 1992, 92-1 CPD ¶ 374 at 7-9, aff'd, Department of Energy et al., B-246977.2 et al., July 14, 1992, 92-2 CPD ¶ 20. Amending the solicitation provides offerors an opportunity to submit revised proposals on a common basis reflecting the agency's actual needs. Dairy Maid Dairy, Inc., B-251758.3 et al., May 24, 1993, 93-1 CPD ¶ 404 at 7-9.

We are not convinced here that the Army's decision to extend the use of the UH-1 helicopters and to provide an additional UH-1 helicopter as GFP represents a significant change in the government's requirements, such that a solicitation amendment was required. Considering the more than $2 billion overall value of the contract, the competitive impact of providing one additional UH-1 helicopter and extending the possible use of the helicopters seems minimal. Moreover, with respect to the extension of GFP beyond 2004, the Army reasonably explains why it chooses

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[35] The Government Property clause, incorporated by reference in RFP § I at 64, provides, in pertinent part:

> (b) *Changes in Government-furnished property.* (1) The Contracting Officer may, by written notice, (i) decrease the [GFP] under this contract or (ii) substitute other [GFP] for the property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by this notice.

[36] The Army implemented this change through post-selection negotiations with KRS, as contemplated by the RFP. RFP § M, at 122; Price Negotiation Memorandum (Sept. 5, 2002) at 4.

to rely on the Government Property clause to transition from UH-1 to commercial helicopters; that is, the agency made this decision because of questions remaining about the timing of transition from UH-1 to commercial helicopters due to the uncertain life expectancy of UH-1 helicopters.

In any event, Northrop Grumman has not shown how it was prejudiced by the Army's failure to amend the RFP. That is, Northrop Grumman has not shown that it would or could have materially improved its competitive position, even if it had amended its proposal presuming the elimination of the commercial helicopter requirement and the provision of the UH-1 helicopters as GFP. Accordingly, we deny this ground of protest. See NV Servs., B-284119.2, Feb. 25, 2000, 2000 CPD ¶ 64 at 18-20 (protest that agency failed to amend solicitation to accurately reflect needs was denied where the protester failed to show prejudice).

Disclosure of Source Selection Sensitive Information

Northrop Grumman also complains that the Army failed to ensure that KRS did not use the source selection sensitive information that was inadvertently released during the competition. However, the protester does not identify any specific source selection information that KRS allegedly used or anything in KRS's proposal or discussions responses that indicates KRS's use of this information. In this respect, the Army reports none of the offerors changed their proposals in any way during the competition that reflected an idea or approach used by the other firms. See Contracting Officer's Statement (Nov. 8, 2002) at 74-76. We also note that none of the offerors objected to the Army's announced plan for mitigating the inadvertent release of source selection information during the competition. In sum, we view this ground of protest as meritless.

Cost/Technical Trade-Off

Northrop Grumman and Raytheon also challenge the cost/technical tradeoff made by the SSA in selecting KRS's higher-rated/higher-cost proposal for award. Both protesters complain generally that their proposals should have been selected on the basis of their lower evaluated costs. In the protesters' views, the benefits offered by KRS's proposal are not worth that proposal's much higher evaluated cost.[37]

Selection officials retain considerable discretion in making cost/technical tradeoff decisions. Their judgments in these tradeoffs are by their nature subjective;

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[37] Raytheon also argued that the SSA's cost/technical tradeoff could not be reasonable because it was based upon the Army's determination that Raytheon's low composite labor rates posed performance risks. Given our finding above that the Army's evaluation of Raytheon's labor rates was reasonable, this argument provides no basis to object to the SSA's cost/technical tradeoff decision.

nevertheless, the exercise of these judgments in the evaluation of proposals and source selection must be reasonable and must bear a rational relationship to the announced criteria upon which competing offers are to be selected. Southwest Marine, Inc.; American Sys. Eng'g Corp., B-265865.3, B-265865.4, Jan. 23, 1996, 96-1 CPD ¶ 56 at 10. Award may be made to a firm that submitted a higher-rated, higher-cost proposal where the decision is consistent with the evaluation criteria and the agency reasonably determines that the technical superiority of the higher-priced offer outweighs the cost difference. National Toxicology Labs., Inc., B-281074.2, Jan. 11, 1999, 99-1 CPD ¶ 5 at 7.

Here, the contemporaneous record evidences a thorough evaluation and best-value analysis by the Army's evaluators, which provided the SSA with a substantial basis upon which to weigh the relative merits of the firms' proposals. We find from our review of the SSA's detailed 12-page source selection decision document that the SSA's decision was reasonable and consistent with the evaluation criteria. That is, the SSA was well aware of the relative cost standing of the offerors, and that KRS's proposed and evaluated cost was substantially higher than that of Raytheon and Northop Grumman. Nevertheless, the SSA determined that KRS's proposal reflected the best value to the government based upon its evaluated technical superiority.

KRS was found to offer many significant strengths and few weaknesses. In this regard, the SSA found that KRS offered the best overall proposal for recruiting and retaining the workforce required for optimum performance at the RTS. The SSA found that "[c]ombined with KRS'[s] superior ratings in past performance and management approach, KRS'[s] 'people' advantage will equate to superior technical performance by KRS over the overall contract period." Agency Report, Tab 8, Source Selection Decision, at 9. In contrast, the SSA found that Raytheon ("the closest contender to KRS in overall Technical/Management quality") offered several impressive strengths, but that Raytheon's proposal to reduce current skill levels and thus labor rates, as part of Raytheon's proposed transition of the RTS to an O&M environment, posed serious performance risks. Furthermore, the SSA noted that Raytheon offered the least realistic and therefore the riskiest cost proposal. Northrop Grumman, the SSA noted, offered less numerous and less significant strengths, as compared to the other offerors, and Northrop Grumman's proposal was based upon "only minimally sufficient labor to perform" the contract, which the SSA found posed a threat to successful performance and "more than offset" Northrop Grumman's proposed lower cost. Id. at 10.

Consistent with the relative importance of the evaluation criteria, under which the technical and management areas were "extremely more important" than cost, the SSA found that KRS's technical superiority was worth the additional cost. In this regard, the SSA noted that the reason that technical and management criteria were of so much more importance than the cost criterion was because of "the critical importance and extremely high cost of the customer programs supported by [the RTS]." Individual tests and missions at the RTS for customers, such as the Missile

Defense Agency, the U.S. Space Command, and the National Aeronautics and Space Administration, often cost in excess of $100 million, and are considered critical to national security. Id. at 11. Although Raytheon and Northrop Grumman disagree with the SSA's judgment, the protesters have not shown it to be unreasonable.

The protests are denied.

Anthony H. Gamboa
General Counsel