



United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This redacted version has been approved for public release.

Decision

Matter of: Arctic Slope World Services, Inc.

File: B-284481; B-284481.2

Date: April 27, 2000

Guy A. Randles, Esq., Darian A. Stanford, Esq., and Charles F. Adams, Esq., Stoel Rives, for the protester.

William A. Roberts, III, Esq., Phillip H. Harrington, Esq., and William S. Lieth, Esq., Wiley, Rein & Fielding, for Chugach Eareckson Support Services, an intervenor.
Capt. Jennifer M. Bell-Towne, Sharon A. Jenks, Esq., and Gregory H. Petkoff, Esq., Department of the Air Force, for the agency.

Paul E. Jordan, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that the contracting agency misevaluated the protester's and awardee's competing proposals under certain technical evaluation criteria, including past performance, is denied where the record shows that the evaluation was reasonable; the protester's mere disagreement does not render the agency's judgment unreasonable.
2. Contracting agencies are not obligated to afford all-encompassing discussions that "spoon-feed" an offeror each item that must be addressed to improve a proposal; agency reasonably led protester into the areas of its proposal with shortcomings that warranted amplification or clarification.
3. Agency's determination, under a price evaluation factor, that the awardee's proposed price for a fixed-price contract was realistic and reasonable based on a comparison for similar service's prices under other agency contracts, is unobjectionable.
4. Protest that evaluation of protester's proposal was influenced by bias on the part of contracting officials is denied where the record shows that the evaluation was conducted in accordance with the criteria announced in the solicitation and contains no evidence of bias.

DECISION

Arctic Slope World Services, Inc. (ASWS) protests the award of a contract to Chugach Eareckson Support Services (CESS) under request for proposals (RFP) No. F65501-99-R-0022, issued by the Department of the Air Force for base operations, maintenance and support services (BOS) at Eareckson Air Station (AS), Shemya Island, Alaska. ASWS challenges the evaluation of proposals, the conduct of discussions, and the award determination.

We deny the protest.

BACKGROUND

Eareckson AS is a remote site with extreme weather conditions and accompanying operational constraints, situated at the end of the Aleutian Chain approximately 1,500 miles from Anchorage, Alaska. Air transport is the primary means of access and re-supply. According to the RFP's performance work statement (PWS), the successful contractor must provide all personnel, equipment, tools, materials, supervision, and other items and services necessary to perform station operations and maintenance as set forth in the PWS. The RFP contemplated the award of a fixed-price contract with award fee, plus fixed-price reimbursable and labor hour line items, for a phase-in period, base year, four 1-year options, and one 6-month option for a total performance period not to exceed 5 years and 2 months.

Proposals were evaluated on the basis of four factors (and related subfactors), listed in descending order of importance: (1) management (personnel, transition plan, quality, and training plan), (2) technical ((power production, electrical distribution and aircraft arresting system), facilities, air field, security/COMSEC, communications-electronics, environmental, and logistics); (3) past performance; and (4) price. RFP § M-484.C.1. Offerors' responses under each item and factor were evaluated on the basis of three equally important criteria: soundness of approach; compliance with requirements; and understanding the requirement. RFP § M-484.B. Evaluations under the management and technical factors were expressed in the following colors/adjectives: blue (exceptional); green (acceptable); yellow (marginal); and red (unacceptable). The management and technical factors and subfactors also were evaluated for proposal risk: low, moderate, or high.

Past performance was evaluated as a performance risk factor, based on information obtained from references supplied by the offerors and from others solicited by the agency. The past performance risk evaluation was expressed in the following colors/adjectives: blue (exceptional); green (satisfactory); tan (neutral); orange (marginal); and red (unsatisfactory). Price was evaluated on the basis of whether the price was realistic, reasonable, cost effective, and affordable, and to assess the offeror's understanding of the RFP. RFP § M-484.C.1.D.1. Price was not rated or

scored. The management, technical, and past performance factors, when combined, were significantly more important than price (RFP § M-484.A.1), and award was not necessarily to be made to the lowest priced or the highest technically evaluated proposal. RFP § M-484.A.2. Award was to be made to the offeror whose proposal represented the best overall value to the government, based on an integrated assessment of each offeror's proposal. RFP § M-484.A.1.

Piquini Management Corporation (PMC), a division of ASWS, was the incumbent contractor for this effort. Three offerors, including ASWS and CESS, submitted proposals by the July 7, 1999 closing date. After an initial evaluation, the agency eliminated one proposal from the competitive range and provided discussion questions to ASWS and CESS in the form of written evaluation notices (EN) for clarifications and deficiencies. After reviewing the offerors' responses, the agency provided additional ENs to both offerors. At the conclusion of negotiations, both offerors were given the opportunity to submit final proposals. The final evaluations under all factors for the protester's and the awardee's proposals were as follows:

	ASWS	CESS
Factor	Rating/Proposal Risk	Rating/Proposal Risk
Management	Green	Green
Personnel	Yellow/High	Green/Moderate
Transition	Green/High	Green/Moderate
Quality	Green/Low	Blue/Low
Training	Green/Moderate	Green/Low
Technical	Green	Blue
Power Production, et al.	Green/Low	Blue/Low
Facilities	Yellow/Moderate	Green/Low
Airfield	Green/Low	Blue/Low
Security/COMSEC	Green/Low	Green/Low
Comm/Electronics	Green/Low	Green/Low
Environmental	Green/Low	Blue/Low
Logistics	Green/Low	Green/Low
Past Performance	Green/Moderate	Blue/Low
Price	\$48,777,621	\$49,423,946

Proposal Analysis Report (PAR) § III, at 7-8, 11-12, 16.

Based upon the stated evaluation criteria and an integrated assessment of proposals, the source selection authority (SSA) determined that CESS's higher technically-rated proposal represented the best overall value to satisfy the Air Force's needs, notwithstanding its higher price. After receiving notice of the award and a debriefing, ASWS filed this protest. Performance of the contract has been stayed pending this decision.

ASWS alleges that the agency misevaluated its and CESS's proposals, failed to provide it meaningful discussions, and made an improper award determination. Based on our review of the record, we find none of these allegations meritorious.¹

RELEASE OF PROPRIETARY INFORMATION

As a threshold matter, the protester complains that the agency improperly released ASWS's proprietary information to unidentified offerors. Specifically, ASWS points out that at the preproposal conference, the agency advised potential offerors of the number of personnel working on the incumbent contract. ASWS also notes that at the debriefing, the contracting officer stated that "current contract" information, including anything incorporated into the contract, had been released outside the government and expressed her willingness to release the incumbent's proposal to anyone because it was incorporated by reference in the incumbent contract

¹ In its comments on the agency report, ASWS raised a number of issues for the first time. In this regard, it objected to certain aspects of the procedures involved in the evaluation team's composition and experience; the price evaluation; the past performance evaluation; and the evaluation of CESS's technical proposal. Protest grounds must be raised within 10 days of the time a protester knows or should have known of the basis for the protest. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (2000). When a protester files supplemental protest grounds, each new ground must independently satisfy the requirements of our regulations. Pacific Architects & Eng'rs., Inc., B-262243, B-262243.2, Dec. 12, 1995, 95-2 CPD ¶ 253 at 12-13. ASWS learned of these new or supplemental grounds when it received the agency report on February 25, 2000, but did not raise them until it filed its comments on the agency report on March 8, more than 10 days later. Accordingly, they are untimely and not for consideration on the merits. We note that none of the supplemental grounds has merit. For example, ASWS argues that the agency improperly found CESS's proposed project manager (PM) acceptable when, despite a resume indicating he worked for a CESS partner, in fact he did not work for CESS at the time the proposal was submitted. In addition, after award of the contract, the proposed PM was replaced by another CESS employee. CESS explains that it mistakenly submitted an old resume of its proposed PM dating from when he was working for a CESS partner. CESS Supplemental Comments, Mar. 17, 2000, at 2. At the time CESS submitted its proposal, the PM was performing similar duties for another employer, and had agreed to accept the PM position at Eareckson if CESS was awarded the contract. The RFP did not require that the offeror provide evidence of a commitment from the person proposed for this position. In fact, RFP § C.5.1.1.2.1 does not require the designation of a PM and alternate until 10 calendar days after contract award. After the proposed PM subsequently decided not to accept the position, CESS notified the Air Force of a substitution of an equally qualified PM. Id. at 3. CESS's mistake did not contravene any RFP requirement and neither CESS's nor the agency's actions in this regard provide a basis for sustaining the protest.

documents. Debriefing Question Nos. 133-34, 136-41, 145-47. There is nothing improper in releasing information on the number of personnel performing an incumbent contract. Rothe Dev., Inc., B-279839, July 27, 1998, 98-2 CPD ¶ 31 at 3. With regard to possible release of the incumbent proposal, notwithstanding the contracting officer's broad statements on releasability, there is no evidence in the record that the proposal was ever released to anyone. At the debriefing, the contracting officer stated that "to the best of [her] knowledge, no one [had] requested [the] proposals." Debriefing Question No. 148. Even assuming some release of PMC's proposal, for the issue to warrant sustaining the protest, the protester would have to show competitive prejudice arising from that release. Rothe Dev., Inc., *supra*. Because CESS was the only offeror which could have caused ASWS competitive harm, to establish prejudice, the record would have to evidence that CESS received PMC's proprietary information. While CESS acknowledges that one of its joint venture partners received a redacted copy of the incumbent contract in 1996, PMC itself had reviewed the information to be released and the agency redacted certain information identified by PMC. Protester's Comments, Mar. 8, 2000, exh. R, Letter from PMC to the Air Force (Aug. 22, 1996). Moreover, CESS denies that it ever requested or received a copy of the incumbent proposals. Intervenor's Comments, Mar. 17, 2000, at 27. In the absence of any evidence to the contrary, we have no basis to conclude that the agency improperly released any proprietary PMC information to CESS or one of its joint venture partners.

TECHNICAL EVALUATION

An agency's method for evaluating the relative merits of competing proposals is a matter within the agency's discretion, since the agency is responsible for defining its needs, and the best method for accommodating them. Advanced Tech. and Research Corp., B-257451.2, Dec. 9, 1994, 94-2 CPD ¶ 230 at 3. Where an evaluation is challenged we will examine the record to determine whether the agency's judgment was reasonable and consistent with stated evaluation criteria and with procurement statutes and regulations. AmClyde Eng'rd. Prods. Co., Inc., B-282271, B-282271.2, Jun. 21, 1999, 99-2 CPD ¶ 5 at 5. The protester's mere disagreement with the agency's judgment does not establish that an evaluation was unreasonable. BFI Waste Sys. of Nebraska, Inc., B-278223, Jan. 8, 1998, 98-1 CPD ¶ 8 at 2.

ASWS identifies several areas in which it contends the agency's evaluation of its proposal was flawed.² Specifically, ASWS contends that the agency improperly

² In its protest, ASW identified other alleged flaws in the evaluation of its proposal under the remaining technical and management subfactors. The Air Force responded to each of the allegations in its agency report and, with the exception of the areas discussed above, ASWS failed to rebut the Air Force's position. In the absence of any meaningful rebuttal, there is no basis on which to sustain these protest grounds. Arjay Elecs. Corp., B-243080, July 1, 1991, 91-2 CPD ¶ 3 at 1 n.1. In
(continued...)

evaluated its management proposal under the “personnel,” “training,” and “transition” subfactors and its technical proposal under the “airfield” subfactor. Based on our review of the record, including the proposals, evaluations, and submissions of the parties, we find that the evaluation was reasonable, in accordance with the stated evaluation criteria, and otherwise unobjectionable.

For example, under the personnel subfactor, the evaluators assessed the offerors’ ability to meet or exceed personnel requirements in the PWS specifically considering the “sufficiency of personnel proposed, depth of qualifications, experience and education of proposed personnel, [and] levels of responsibility.” RFP § M-484.C.1.A.1. ASWS’s proposal was rated “yellow/high risk” under this subfactor primarily because its proposed deputy project manager (DPM) was proposed to perform many of the project manager (PM) responsibilities, but did not possess the same experience as the PM. Further, based on its review of the qualifications provided for ASWS’s PM, who was currently performing those responsibilities on the incumbent contract, the agency also inferred that the PM would not be a “team player working with the government to accomplish the mission.” PAR § III, at 8. ASWS disputes this assessment, arguing that the DPM was not a required position; that the DPM in fact met all experience requirements as interpreted by ASWS; and that the PM’s failure to include “accomplishing the mission” and “customer service” in his resume was not a valid basis for downgrading the ASWS proposal. Protest at 7.

We find nothing unreasonable in the agency’s evaluation. Notwithstanding the proposal of the DPM as a non-required position, the DPM was proposed to perform a number of the PM’s responsibilities. That being the case, it was reasonable for the agency to expect that he would possess experience comparable to that of the PM. Further, the PWS explicitly required the designation of an alternate PM, who was to possess similar qualifications to the PM. RFP § C.5.1.1.2.1.1. With regard to how well the DPM met the experience requirements, ASWS redefined the requirement during discussions maintaining that it “[did] not interpret the PWS as requiring the [proposed PM] to have 10 years as a Project Manager, but rather 10 years of experience in project or program management, which in our view can be acquired without actually being the Project Manager.” Protest, exh. E, at 2. Since the RFP required 10 years “managerial experience in project or program management . . . at least five (5) years of which are managing service contracts” (RFP § C.1.2.2.2.1.1), we believe the agency reasonably felt the proposed DPM should possess more

(...continued)

addition, ASWS disputes virtually every aspect of the evaluation of CESS’s proposal, generally on the basis of CESS’s lack of experience as the incumbent. Without more, ASWS’s mere disagreement with the agency’s judgment does not establish that the evaluation was unreasonable. BFI Waste Sys. of Nebraska, Inc., supra.

management experience than was reflected on his resume. Likewise, we find nothing unreasonable in reviewing the proposed (and incumbent) PM's resume using past experience with the PM to infer whether he would be a team player with the government in performing the contract. An agency may properly use information known by its own evaluators, as with any other references, to aid in the evaluation of proposals, including evaluating offeror experience. Safeguard Maintenance Corp., B-260983.3, Oct. 13, 1995, 96-2 CPD ¶ 116 at 12.³

Under the "transition plan" subfactor, the government assessed the offerors' ability to meet or exceed the PWS transition requirements considering whether the proposal demonstrated a sound approach to effectively plan, control, organize, and manage tasks including inventories, logistics, personnel, and how transition would be accomplished without placing at risk current day-to-day operations. RFP §§ M-484.C.1.A.2, L-483.I.2. ASWS's proposal was rated "green/high risk" because ASWS placed full transition responsibility on a four-member "tiger team" led by a quality control manager to conduct all transition activities, with no other personnel brought in until the transition period was complete. PAR § III, at 7. ASWS observes that "[a]s the incumbent with its full management and operational staff in place, [its] transition for the new contract would obviously be straightforward and minimal" since "the real transition work to conduct is mainly administrative in nature." Protest at 8.

We find nothing unreasonable in the agency's assessment that ASWS's approach, though technically compliant, was risky. In this regard, some 2,500 individual items of government-owned equipment had to be inventoried, including a determination of whether the items are in working order, along with inventorying of government-furnished buildings and other facilities. RFP § C.3.1.2.3 and Technical Exh. 5 (33 pages of equipment and facilities). In the agency's view, the inventory alone is "massive" and "extremely time consuming." Supplemental Agency Report at 7-8. Moreover, notwithstanding ASWS's stated plan to have its current personnel accomplish the inventorying over a 6-month period leading up to contract award (ASWS Proposal at 39) and its stated recent accomplishment of an inventory over a 1-week period (ASWS Supplemental Comments at 15-16), the transition effort was to be separate from the day-to-day operations. Attempts to work the additional transition responsibilities into the normal effort could risk degrading that effort. Supp. Agency Report at 8. Accordingly, despite its status as the incumbent, ASWS's plan to use a 4-member team for the transition effort was reasonably viewed as a risky approach. An offeror is responsible for affirmatively demonstrating the merits

³ We do not agree with ASWS that this and other evaluation comments based on the evaluators' personal knowledge of the incumbent contract constitute an improper "double counting" of past performance. Rather, these represent simply a matter of evaluators reasonably weighing proposal information against personal knowledge in judging an offeror's technical and management capability.

of its proposal and risks the rejection of its proposal if it fails to do so. DBA Sys., Inc., B-241048, Jan. 15, 1991, 91-1 CPD ¶ 36 at 4.

With regard to the evaluation of ASWS's proposal under the "training plan" management subfactor, it was evaluated as "green/moderate risk" and under the "airfield" technical subfactor as "green/low risk." Each of these evaluations referenced a single weakness. For training, it was a concern that ASWS personnel receiving their training "on-the-job" will not have the depth of experience that those working in a specialty for a number of years would have. PAR § III, at 8. For the airfield subfactor, the evaluators noted that the proposal left out the airfield manager in the monthly airfield inspection. Notwithstanding ASWS's view that the "training" observation is "nonsensical" (Protest at 8), the fact remains that the RFP calls for hiring and retaining qualified personnel as well as requiring the contractor to ensure that initial and required/recurring training is accomplished. RFP §§ C.1.2.2.1.7, C.5.3.12.5.2, C.5.4.1.23.1. While the difference in capability is obvious when comparing newly trained personnel with experienced personnel, the agency reasonably concluded that ASWS's reliance on on-the-job training made its plan more risky. Likewise with regard to the airfield, while ASWS is correct that there is no requirement for the airfield manager himself to attend the inspections and ASWS proposed to have the manager's supervisor attend, the agency reasonably found a weakness in the absence of the manager with day-to-day responsibility for the airfield. In any event, since both subfactors were rated green, removal of these weaknesses would have had no significant impact on the roll-up final scores of green for both management and technical aspects of the proposal. In sum, the agency's evaluation of ASWS's proposal under the technical and management criteria was unobjectionable.

MEANINGFUL DISCUSSIONS

ASWS contends that it was denied meaningful discussions in the same four areas under the management and technical evaluations.⁴ In negotiated procurements, contracting agencies generally must conduct discussions with all offerors whose proposals are within the competitive range. Federal Acquisition Regulation (FAR) § 15.306(d)(1). While the FAR requires the contracting officer to indicate or discuss all aspects of the proposal that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award, the rule remains that agencies are not obligated to afford all-encompassing discussions;

⁴ ASWS identified another four areas in its original protest in which it believed it did not receive meaningful discussions. The agency responded to each of these allegations in its report and the protester did not rebut them in its comments. Accordingly, we have no basis to conclude that the agency did not provide meaningful discussions in these areas. Arjay Elecs. Corp., supra.

rather they must be meaningful, leading an offeror into the areas of its proposal requiring amplification or revision. Johnson Controls, Inc., B-282326, Jun. 28, 1999, 99-2 CPD ¶ 6 at 4. The agency is not required to "spoon-feed" an offeror as to each and every item that could be raised to improve its proposal. Du & Assocs., Inc., B-280283.3, Dec. 22, 1998, 98-2 CPD ¶ 156 at 7-8.

Based on our review of the record, it shows that the Air Force conducted appropriate and meaningful discussions with ASWS during successive rounds of written discussions. For example, with regard to the proposal of the DPM, during the first round of negotiations, the agency sent ASWS two ENs, one questioning the experience of the PM (ENDM2) and a second asking for elaboration on the benefit of a DPM (ENCM3). When ASWS responded to ENCM3 explaining that the DPM would regularly perform some of the tasks intended for the PM, the agency sent ASWS a third EN (ENCM3(2)) emphasizing the need for the proposed DPM to have the same education and experience requirements as the PM. Even though ASWS responded to all three ENs, it did not fully satisfy the agency's concerns, in part because the protester "redefined" the agency experience requirements to explain how its DPM met them (see evaluation discussion above). After reviewing this response, the agency did not believe additional discussions would be productive. We believe that three ENs in this regard were sufficient to apprise ASWS of the agency's concerns.

With regard to the transition plan, the agency sent the protester an EN based on ASWS's proposal statement that "we guarantee the government an easy transition period." ENCM4. The EN asked ASWS to "quantify the guarantee and define 'easy.'" Under the heading, "Nature of Clarification," the EN stated, "Proposal has made a big promise -- a guarantee. This is unusual and needs to be clearly understood." In response, ASWS emphasized its status as incumbent and its confidence that its experience would allow it to assume the new contract with no reduction in operational capability. It therefore saw the transition as "easy" and guaranteed that its "transition [would] start as scheduled and be completed on time." Response to ENCM4. While the evaluators found this resolved the item and rated the plan "green," they found that it remained a high risk due to the tiger-team approach. We believe this EN was sufficient to lead ASWS into an area of its proposal requiring more information. Thus, the discussions were meaningful on this matter. While ASWS complains that the agency should have followed up with its risk concerns, since ASWS did not elaborate on its plan in its first response, in our view, the agency reasonably concluded that additional questions would not be productive.

The agency did not send any ENs specifically identifying agency concerns about the lack of long-term experience in on-the-job trained personnel or about the absence of the airfield manager at monthly inspections. However, an agency is not required to advise an offeror as to each and every item that could be raised as to improve its proposal. Du & Assocs., Inc., *supra*. Here, these two issues were viewed simply as weaknesses under individual management and technical subfactors which both were

rated “green.” In these circumstances, the protester was not entitled to all encompassing discussions including these minor aspects of its proposal.

ASWS contends that, had it known of the concern about the airfield manager, it could have agreed to include him in the monthly inspections. ASWS also states, without discussing how, that it would have changed its on-the-job training plan. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency’s actions, that is, unless the protester demonstrates that, but for the agency’s actions, it would have had a substantial chance of receiving the award. McDonald-Bradley, B-270126, Feb. 8, 1996, 96-1 CPD ¶ 54 at 3; see Statistica, Inc., v. Christopher, 102 F. 3d 1577, 1581 (Fed. Cir. 1996). Based on the remaining evaluations, and the fact that ASWS was rated “green” overall in both the management and technical factors, there is no plausible basis to conclude that additional information from ASWS on either matter would have lowered its risk rating under the training subfactor or improved its color ratings to “blue” under either subfactor.

PAST PERFORMANCE EVALUATION

ASWS protests the agency’s evaluation of its proposal under the past performance evaluation criterion, arguing that ASWS’s rating should have been “blue” instead of “green.” Specifically, ASWS contends that the agency “inexplicably” questioned only 13 of its 24 references. Protest at 15. Our Office will examine an agency’s past performance evaluation only to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, since determining the relative merit of an offeror’s past performance is primarily a matter within the contracting agency’s discretion. Pacific Ship Repair and Fabrication, Inc., B-279793, July 23, 1998, 98-2 CPD ¶ 29 at 3-4. In conducting a past performance evaluation, an agency has discretion to determine the scope of the offerors’ performance histories to be considered, provided all proposals are evaluated on the same basis and consistent with the solicitation requirements. Federal Envtl. Servs., Inc., B-250135.4, May 24, 1993, 93-1 CPD ¶ 398 at 12. Based on our review of the record, we find nothing unreasonable in the agency’s conduct of the performance evaluation or in the rating given ASWS’s proposal.

The RFP provided that the past performance assessment would be a “subjective, but unbiased judgment about the quality of an offeror’s past performance.” RFP § M-484.C.1.C.1. The government’s judgment was based upon “(1) records of objective measurements and subjective ratings of specified performance attributes, if available, and (2) statements of opinion about the quality of specific aspects of an offeror’s performance, or about the quality of an offeror’s overall performance.” RFP § M-484.C.1.C.2. The government reserved the right both to limit the number of references to be contacted and to contact references other than those provided by the offerors. Id.

Here the agency determined that only 14 of the protester's past performance references were similar to the solicited effort from a dollar amount and requirements standpoint and sent questionnaires to those references. For example, the agency did not send a questionnaire to a former customer where the \$36,000 contract was for transient commercial aircraft line maintenance nor to a customer where the \$806,000 contract was for grounds maintenance. The agency received 12 responses to its inquiries and averaged the numerical ratings from each questionnaire.⁵ The agency sent questionnaires to 11 references supplied by CESS and averaged the numerical ratings of the six responses it received. Since the agency based its choice of references to contact in a reasonable manner, contacted a similar selection of references for ASWS and CESS, and calculated the performance ratings in the same fashion, we see nothing unreasonable in the agency's evaluation methodology. Likewise, we see nothing unreasonable in ASWS's "green" past performance rating. The average of its ratings was 4.06 points out of a maximum of 5. While ASWS disagrees and contends that it should have received a "blue" rating based on its past performance, its score was reasonably considered to be "green."⁶

ASWS next argues that the agency improperly considered the contractor performance assessment report (CPAR) from its incumbent contract. It was the "marginal" ratings on the CPAR that resulted in ASWS's lowest past performance ratings. In the protester's view, this CPAR represented a biased and unsupported evaluation of its performance because the agency improperly rejected the protester's detailed response to the CPAR. We disagree. The record reflects that the

⁵ One questionnaire was returned with narrative comments, but no numerical ratings. The agency reviewed the information, but was unable to include the responses in the numerical average of ratings.

⁶ ASWS also contends that CESS's 4.83-point past performance rating should not have been rated "blue," primarily because CESS was a newly formed joint venture which had not performed a BOS contract of this scope before. While CESS had not performed a BOS contract as a joint venture, its joint venture partners had performed BOS contracts of similar size and scope. The RFP provided for evaluation of an offeror's performance as a prime or subcontractor as well as information on parent and subsidiary companies' past performance. RFP §§ L.483.III.1,.3. An agency may properly consider the separate qualifications of joint venture partners in evaluating the qualifications of the joint venture. Dynamic Isolation Sys., Inc., B-247047, Apr. 28, 1992, 92-1 CPD ¶ 399 at 7 n.7; Beneco Enters., Inc., B-239543.3, June 7, 1991, 91-1 CPD ¶ 545 at 7. Moreover, ASWS itself acknowledges that it is "through its affiliated corporations [that it] has a wealth of pertinent experience in the type of BOSS Contracts involved in this procurement, including the predecessor contract." Protest at 15. ASWS's mere disagreement with the agency's evaluation of similar experience regarding CESS does not make the evaluation unreasonable. BFI Waste Sys. of Nebraska, Inc., supra.

contracting officer and the program management office reviewed the protester's "voluminous" rebuttal (approximately 4 inches of material) and found nothing to change the agency's position. According to the agency, some "95% of PMC's comments are not relevant to the time frame for the rating. The remaining 5% are in the correct time frame, however do not dispute any of the Government['s] facts justifying the rating." Agency Report, Tab 15, Summary of Actions.⁷ ASWS submitted a copy of the rebuttal to our Office but failed to identify any specific instance where the agency's assessment was incorrect. Based on our review of the submissions, we see no basis for finding the CPAR or the agency's reliance on it in the past performance evaluation to be unreasonable.

BIAS ALLEGATIONS

ASWS attributes its past performance and other evaluation scores to bias on the part of the contracting officer. Specifically, ASWS alleges that the contracting officer did not expeditiously handle PMC's claims under the incumbent contract; responded to a past performance questionnaire in an unrelated procurement with a negative response despite her lack of experience with PMC's past performance; indicated in that same response her intention not to exercise the final option of the incumbent contract; and was responsible for the negative CPAR. In support of these allegations, ASWS submitted copies of the lengthy rebuttals it furnished in response to the past performance questionnaire and the CPAR, along with excerpts from depositions taken in its pursuit of claims under the incumbent contract. Otherwise, ASWS relies on the record of the evaluations as evidence of bias.

Government officials are presumed to act in good faith; we will not attribute unfair or prejudicial motives to procurement officials on the basis of inference or supposition. Triton Marine Constr. Corp., B-250856, Feb. 23, 1993, 93-1 CPD ¶ 171 at 6. In addition to producing credible evidence showing bias, the protester must demonstrate that the agency bias translated into action that unfairly affected the protester's competitive position. Id.

Here, ASWS has furnished no credible evidence to support its allegation; it merely infers bias based on the evaluation and the statements of the contracting officials whom the current contracting officer had replaced. In this regard, while disputing the contracting officer's past performance opinions, its protest submissions do not identify where the opinions are in error. Likewise, while the excerpted depositions indicate that the former contracting officials did not think highly of the current

⁷ Among the issues identified by the CPAR were that the power plant had not met the requirement to provide continuous electrical power, which resulted in significant cost to the government and the issuance of 161 contractor deficiency reports, 71 percent of which were related to facility operations and maintenance. CPAR, June 30, 1999, Block 16.

contracting officer or her qualifications, how well the contracting officer performs her job and how quickly she settles claims are not indications of bias. In this regard, while the protester disagrees with the handling of its contract claims and the intention not to exercise an option, the Air Force explains that the claims are being resolved and that it did exercise the final option of the incumbent contract. The protester would have us attribute bias in the evaluation of proposals on the basis of inference and supposition and contrary to a record which establishes the propriety of the agency's evaluation of ASWS's proposal; in these circumstances, there is no basis to question the motives of any of the contracting officials.

PRICE EVALUATION

ASWS challenges the price evaluation based on the agency's acceptance of certain of CESS's reimbursable rates which ASWS characterizes as unreasonably low. In this regard, ASWS observes that CESS's proposed reimbursable rates for extended airfield operations and "mandays" are a fraction of what ASWS proposed.⁸ Based on the protester's experience in performing the incumbent contract, it maintains that the agency could not have found CESS's rates to be realistic.

The RFP provided that an offeror's price proposal would be evaluated to determine if the "estimate is realistic, reasonable, cost effective, affordable and to assess the offeror's understanding of the solicitation." RFP § M-484.C.1.D. Cost realism, ordinarily is not considered in the evaluation of proposals for a fixed-price contract such as the one involved here, since a fixed-price contract provides for a definite price and places the risk and responsibility for all contract costs and resulting profit or loss upon the contractor. Volmar Constr., Inc., B-272188.2, Sept. 18, 1996, 96-2 CPD ¶ 119 at 5. While an agency may provide for a price realism analysis in the solicitation of fixed-priced proposals, a fixed-price offer that is below cost is legally unobjectionable and cannot be rated lower or downgraded in the price evaluation for source selection simply by virtue of its low price. Sperry Corp., B-225492, B-225492.2, Mar. 25, 1987, 87-1 CPD ¶ 341 at 3-4. The FAR provides a number of price analysis techniques that may be used to determine whether prices are reasonable and realistic including comparison of the prices received with each other and comparison of previously proposed prices for the same or similar items. FAR

⁸ Extended airfield operations represent those hours on weekends and holidays not otherwise within the normal workday. The contractor is expected to provide all required labor to support a single aircraft mission during weekends and holidays. A manday is defined as a period in which a visitor remains on station overnight and is furnished lodging in addition to meals, and transportation to and from the terminal. RFP § C.5.4.5.3. The contractor is expected to provide all labor necessary to support mandays over and above those estimated for a fiscal year.

§ 15.404-1(b)(2). The nature and extent of an agency's price realism analysis are matters within the sound exercise of the agency's discretion. Cardinal Scientific, Inc., B-270309, Feb. 12, 1996, 96-1 CPD ¶ 70 at 4.

Here, the agency's price evaluation included analysis of both price proposals, a review of the operation and management line items, salary and benefit rates, general and administrative costs, and a comparison of support prices, such as the manday and extended airfield rates. PAR § IV, at 16. With regard to the rates challenged by ASWS, while its proposed prices are higher than those proposed by CESS, the agency explains that CESS's manday and extended airfield rates are comparable to the rates charged at other Alaska bases. For example, one of CESS's joint venture partners performs these services at the King Salmon and Galena Air Stations in Alaska. The rates for extended airfield operation proposed by CESS are slightly higher than those rates. Similarly, the rates proposed for additional mandays are slightly lower than those at King Salmon and Galena. While ASWS argues that the conditions at Eareckson are harsher and require greater effort than King Salmon or Galena, there is no requirement that an agency's price comparison be based on identical rates or performance situations. Here the price evaluators questioned these rates and the contracting officer satisfied herself that the rates were reasonable and realistic based on her comparative analysis. Since these rates are fixed, the risk of successful performance at the proposed price lies with CESS. Whether a contract can be performed at the offered price is a matter of the offeror's responsibility. Compro Computer Servs., Inc., B-278651, Feb. 23, 1998, 98-1 CPD ¶ 58 at 6 n.4. We will not review an agency's affirmative determination of responsibility absent circumstances not present here. 4 C.F.R. § 21.5(c).

AWARD DETERMINATION

Finally, ASWS asserts that the agency's determination to award the contract to CESS at a higher price than proposed by ASWS is not supported by a proper price/technical tradeoff. Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. Chemical Demilitarization Assocs., B-277700, Nov. 13, 1997, 98-1 CPD ¶ 171 at 6. Where, as here, the RFP provides that non-price factors are significantly more important than price, the selection official retains discretion to select a higher-priced but also technically higher-rated submission, if doing so is in the government's best interest and is consistent with the solicitation's stated evaluation and source selection scheme. University of Kansas Med. Ctr., B-278400, Jan. 26, 1998, 98-1 CPD ¶ 120 at 6-7.

Here the SSA based his selection on the evaluation criteria in section M of the RFP and his integrated assessment of the proposals, the results of the negotiations, and the capability of CESS to perform the requirement. Source Selection Document at 1.

He noted the results of the evaluation, including CESS's green management rating, blue technical rating, and blue past performance rating as well as ASWS's green ratings in all three areas. Specifically, he noted that the joint venture partners comprising CESS would bring "extensive experience to the operation and maintenance of Eareckson AS with a high degree of technical expertise and quality service for this program." Source Selection Document at 2. While noting that CESS's price was higher than ASWS's, "the low risk, high degree of technical expertise, quality service program, and better past performance ratings of CESS ma[d]e their proposal a better overall value to the Government." *Id.* Although not as detailed as ASWS might desire, the SSA's determination is consistent with the RFP's source selection plan and is supported by the evaluation record. Under these circumstances, there is no basis to question the SSA's determination.

In a related argument, ASWS contends that in making the award determination, the SSA improperly considered the percentage difference between ASWS's and CESS's proposals based on the total prices proposed by the offerors which included some \$20 million in estimated reimbursable line items. Had the SSA used the reduced totals, the percentage difference associated with CESS's higher proposed price would be 2.3 percent instead of the 1.3 percent relied upon by the SSA. Where an RFP provides for use of reimbursable, plug-type numbers to be included in all offerors' proposals, the agency should essentially delete this common cost in assessing the price differential between competing proposals. *See CRAssociates, Inc.*, B-282075.2, B-282075.3, Mar. 15, 2000, 2000 CPD ¶ ____ at 10. In fact, the RFP provides that cost reimbursable items will not be evaluated. RFP § M.C.1.D.1.f. However, in view of the relatively small percentage of the total price represented by the \$646,000 difference between the two price proposals, we see no basis to conclude that the failure to exclude the common costs for purposes of the differential percentage calculation had any significant impact on the SSA's award determination.

The protest is denied.

Comptroller General
of the United States