



**GAO**

Accountability \* Integrity \* Reliability

**Comptroller General  
of the United States**

**United States Government Accountability Office  
Washington, DC 20548**

**DOCUMENT FOR PUBLIC RELEASE**

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

## Decision

**Matter of:** Paragon TEC, Inc.

**File:** B-405384

**Date:** October 25, 2011

---

Bryan R. King, Esq., and Ralph C. Thomas, III, Esq., Barton, Baker, Thomas, & Tolle, LLP, for the protester.

Victoria H. Kauffman, Esq., Jerald J. Kennemuth, Esq., and Callista M.

Puchmeyer, Esq., National Aeronautics and Space Administration, for the agency.

Peter D. Verchinski, Esq., and Guy R. Pietrovito, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

### **DIGEST**

Protest challenging an agency's evaluation of the offerors' technical and past performance proposals is denied where agency's evaluation was reasonable and in accordance with the evaluation criteria.

---

### **DECISION**

Paragon TEC, Inc., of Cleveland, Ohio, protests the award of a contract to Alphaport, Inc., of Cleveland, Ohio, under request for proposals (RFP) No. NNC11ZCH002R, issued by the National Aeronautics and Space Administration (NASA) for technical support services for NASA's Safety Center (NSC).

We deny the protest.

### **BACKGROUND**

The NSC, established in 2006, supports the safety and mission assurance requirements of NASA's projects and programs. The NSC is composed of four offices: Technical Excellence, Knowledge Management Systems, Mishap Investigation Support, and Audits and Assessments. In order to provide technical support to these offices, the RFP sought a contractor to provide a variety of services, including information dissemination and outreach; operational support of the NSC information technology systems including software development; knowledge management; mishap investigation support office safety engineering services support; and data analysis and trending. RFP § C.1.1, at C-1-C-2.

The RFP, issued as a small business set-aside, provided for the award of a cost-plus-fixed-fee, indefinite-delivery/indefinite-quantity contract with an estimated maximum value of \$45 million. Offerors were informed that proposals would be evaluated on a best value basis, considering the following evaluation factors (listed in descending order of importance): technical capability,<sup>1</sup> relevant experience/past performance, and cost. The technical capability and experience/past performance evaluation factors, when combined, were significantly more important than cost. RFP § M.1(c)(1), at M-1. Four subfactors were identified under the technical capability evaluation factor: overall understanding of the requirements, management plan, technical approach to sample work requirements, and phase-in plan. The first three subfactors were approximately equal in importance and significantly more important than the fourth subfactor. RFP § M.1(c)(4), at M-1.

With respect to the overall understanding of the requirements subfactor, offerors were informed that the agency would evaluate the offeror's overall understanding and approach to meeting the requirements of the RFP as demonstrated by the offeror's completeness, overall balance, and consistency. RFP § M.1.A, at M-2. Furthermore, the RFP provided for the evaluation of the offeror's approach for identifying optimum skill mix and matching skill mix to services and functions. Id.

With respect to the relevant experience/past performance evaluation factor, the RFP stated that the agency "will evaluate both the extent of the Offeror's (proposed Prime Contractor and Major Subcontractors) experience and the quality of its performance." RFP § M.1, at M-4. The RFP defined a major subcontractor to be a firm that would perform more than 20 percent of the total contract effort. RFP § L.16(A), at L-26. Offerors were instructed to submit various experience and past performance information, for the prime contractor and any major subcontractors, including a list of all government contracts involving relevant work over the past three years. Id.

The agency received four proposals, including Paragon's and Alphaport's. Alphaport proposed a teaming arrangement that included Triune Group, which was proposed as a major subcontractor, and Valador, Inc., which was not a major subcontractor. See Alphaport Past Performance Proposal at 2-3. In this regard, Alphaport provided detailed information concerning the contracts that it, Triune, and Valador had performed. Id. at 3-18.

After evaluating proposals, the agency established a competitive range consisting of Paragon's and Alphaport's proposals and conducted discussions with these firms.

---

<sup>1</sup> The RFP also refers to the technical capability factor as the "mission suitability" capability. See RFP § M.1(b)1. For consistency, we refer to this factor as the technical capability factor.

Paragon’s and Alphaport’s revised proposals were evaluated by the agency’s source evaluation committee (SEC) as follows:

		<b>Paragon</b>	<b>Alphaport</b>
<b>Technical Capability<sup>2</sup></b>		<b>VERY GOOD</b>	<b>EXCELLENT</b>
	Understanding the Requirements	Very Good	Excellent
	Management Plan	Good	Good
	Technical Approach to Sample	Excellent	Excellent
	Phase-in Plan	Good	Good
<b>Experience/Past Performance<sup>3</sup></b>		<b>HIGH</b>	<b>VERY HIGH</b>
<b>Probable Cost<sup>4</sup></b>		<b>\$27,997,104</b>	<b>\$28,011,958</b>

Agency Report (AR), Tab 23, Final Source Selection Briefing, at 5. The evaluators’ adjectival ratings were supported by narrative discussions that identified each vendors’ respective strengths under each factor. No weaknesses or deficiencies were identified in either offeror’s proposal under any of the factors or subfactors. Alphaport’s higher overall rating under the technical capability factor reflected the firm’s higher, excellent rating under the understanding the requirements subfactor.

Alphaport’s proposal was evaluated as excellent under the understanding the requirements subfactor based upon the SEC’s finding that the awardee’s proposal had

---

<sup>2</sup> An excellent rating reflected a proposal that was comprehensive and thorough, had exceptional merit with one or more significant strengths, and had no significant weaknesses or deficiencies. A very good rating reflected a proposal that demonstrated overall competence, had one or more significant strengths that outbalance any weaknesses, and had no deficiencies. A good rating reflected a proposal that demonstrated a reasonably sound approach, contained strengths or weaknesses (and any weaknesses not off-set by the strengths did not significantly detract from the offeror’s response), and had no deficiencies. RFP § M.1, at M-2.

<sup>3</sup> A very high level of confidence rating reflected an offeror with relevant past performance of exceptional merit that was highly pertinent; exemplary performance in a timely, efficient and economical manner; and for whom any minor problems had no adverse effect on overall performance. A high level of confidence rating reflected an offeror with relevant past performance that was highly pertinent; very effective performance with contract requirements accomplished in a timely, efficient and economical manner; and who had experienced only minor problems with little identifiable effect on overall performance. RFP § M.3, at M-5-M-6.

<sup>4</sup> Paragon’s final proposed cost of \$27,158,182 was increased in the agency’s probable cost analysis. AR, Tab 24, Source Selection Statement, at 8. Alphaport’s final proposed cost of \$28,531,923 was decreased. *Id.* at 6. The agency’s probable cost analysis is not protested.

seven strengths (four of which the SEC found were significant).<sup>5</sup> Specifically, the SEC noted as significant strengths that Alphaport proposed (1) numerous operational innovations that could be used immediately; (2) a comprehensive information technology (IT) security program with personnel with an extensive, broad background across multiple federal agencies; (3) a comprehensive change control management process; and (4) outstanding teaming arrangements that provided formidable capability and expertise in all elements of the statement of work. Id. at 10. The SEC also identified strengths for Alphaport's proposed action tracking system, IT infrastructure library management framework, and mishap investigation support. Id. at 11.

Alphaport's proposal was evaluated as very high confidence under the experience/past performance factor based upon the SEC's judgment that the offeror presented relevant experience and had received very good to excellent past performance ratings. Id. at 47. In this regard, the agency noted that Alphaport itself had relevant experience that was highly pertinent to the work being procured here, that its major subcontractor Triune had relevant experience with NSC's IT system, and that Valador had relevant experience in performing risk, reliability and safety studies. Id.

In comparison, Paragon's proposal was evaluated as very good under the understanding the requirements subfactor based upon the SEC's assessment that Paragon's proposal had five strengths (two of which were significant). Specifically, the agency noted as significant that Paragon (1) proposed an approach to incident reporting information systems (IRIS) that would strengthen data quality and allow the agency to enhance its data analysis and trending functions; and (2) demonstrated extensive expertise with respect to mishap investigation support office (MISO) support. Id. at 16. The agency also identified strengths for Paragon's proposed information dissemination and outreach process, IT infrastructure and IT security, and risk management plan. Id. at 17.

Paragon's proposal was evaluated as high confidence under the experience/past performance factor based upon the SEC's judgment that, although Paragon itself had "limited relevant past performance experience related to this acquisition," its team member, Ares, had experience in the majority of areas in the statement of work. Id. at 66. The agency found that, as a team, the offeror's relevant experience and very good to excellent past performance ratings resulted in a high level of confidence that the offeror would be able to successfully perform the work. Id.

---

<sup>5</sup> The RFP defined a significant strength as some aspect of the proposal that greatly enhances the potential for successful performance. RFP § M.1, at M-2. A strength was defined as an aspect of the proposal that would have some positive impact on the successful performance of the contract. Id.

The source selection authority (SSA) met with the SEC and reviewed the SEC's evaluation of the offerors' revised proposals. Declaration of SSA, Aug. 11, 2011. He concluded that Alphaport's proposal, at a slightly higher probable cost, represented the best value to the agency, based upon its significant superiority. AR, Tab 24, Source Selection Statement, at 9.

Specifically, the SSA found that Alphaport's significant strengths under the understanding the requirements evaluation subfactor, including the "multiple realistic innovations that will improve operational efficiency" as well as other strengths, outweighed Paragon's strengths under this factor.<sup>6</sup> Id. at 8. The SSA also found that, although both offerors had received a "good" rating under the management plan subfactor, Alphaport's proposal was superior to Paragon's, because Alphaport would "provide enhanced backup capability and additional flexibility in bringing in subject matter experts and proposed a revised skill mix that demonstrated a good understanding of NSC functions." Id.

Also, the SSA found that Alphaport's proposal was superior to Paragon's under the experience/past performance factor, because Alphaport itself had highly relevant past performance, and Paragon's own experience and past performance was of limited relevance. Id. In this regard, the SSA credited Paragon for the highly relevant experience of its proposed subcontractor, Ares, but concluded that Alphaport's own directly relevant experience was a meaningful discriminator given that the prime contractor will be responsible for management of the overall work. Id.

Award was made to Alphaport, and this protest followed.

---

<sup>6</sup> The source selection statement incorrectly identifies Paragon's evaluated significant strengths under the understanding the requirements subfactor (that is, Paragon's strengths for IRIS data quality and MISO support) as being under the technical response to sample work requirements subfactor. In his declaration, the SSA states that he was aware from the SEC's briefing and in his decision that these significant strengths were actually under the understanding the requirements subfactor. He explains that the misidentification of these strengths in the source selection statement was a drafting error made by a NASA staff employee who assisted the SSA in preparing the statement. Declaration of SSA, Aug. 11, 2011, at 1-2.

## DISCUSSION

### Technical Evaluation

Paragon argues that NASA evaluated the firms' proposals under the understanding the requirements subfactor disparately.<sup>7</sup> Specifically, Paragon objects to the agency's assignment of two significant strengths to Alphaport for its proposed innovations and its proposed teaming arrangement. Paragon also challenges the assignment of a strength to Alphaport for its action tracking system. Paragon asserts that it offered the same benefits.<sup>8</sup>

Where a protester challenges an agency's technical evaluation, this Office will review the evaluation record to determine whether the agency's judgments were reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations. Rome Research Corp., B-291162, Nov. 20, 2002, 2002 CPD ¶ 209 at 4. A protester's mere disagreement with an agency's judgments does not render the evaluation unreasonable. Id.

We find from our review of the record that the agency's judgment regarding the strengths of Alphaport's proposal was reasonable and did not reflect disparate treatment. With regard to Paragon's argument concerning the relative merits of the two firms' proposed innovations, the agency explains that it considered all of Paragon's proposed innovations, but found that many of them were already being performed and thus did not merit additional credit. Legal Memorandum at 7-8. In contrast, the SEC found that Alphaport offered realistic and operational innovations that could be used immediately after the start of the contract. AR, Tab 23, Final

---

<sup>7</sup> Paragon also complains that NASA applied an undisclosed evaluation criterion in evaluating proposals under the technical capability factor. Specifically, the protester argues that the agency improperly provided more credit for Alphaport's evaluated significant strengths because they were considered to be in core areas, see Legal Memorandum at 6, whereas Paragon's significant strengths were "related to comparatively less important work areas," and thus not valued as highly. We find no merit to Paragon's concern that an agency, in valuing the relative comparative merit of assessed strengths, would consider whether the strengths related to more or less important work areas.

<sup>8</sup> Paragon also challenges the agency's evaluation of Alphaport's proposed flexible personnel system as a strength under the management plan subfactor. Paragon contends that it proposed the same capability, but received no credit. The record shows, however, that Alphaport explained its core flex personnel system and detailed the method in which it would use to staff task orders. Paragon, on the other hand, did not detail how it would reach back to its partners and teammates to staff new work. See Legal Memorandum at 9; Compare Alphaport's Technical Capability Proposal, at 44-45 with Paragon's Technical Capability Proposal, at B.1.6-B.1.8.

Source Selection Briefing, at 10. In its comments, Paragon argues that the agency's evaluation reflected a pattern of disparity, but failed to challenge the agency's explanation of its assignment of strengths for the firms' proposed innovations or otherwise explain why the agency's evaluation was unreasonable. We conclude that the protester merely disagrees with the agency's judgment, which does not demonstrate that the agency's evaluation was unreasonable.

With regard to Paragon's objection that both firms should have received similar strengths for their proposed teaming arrangements, NASA explains that Alphaport was assigned a significant strength because major subcontractor, Triune, was the developer of the "Knowledge Now" management collaboration system, which NSC currently uses. See Legal Memorandum at 8. Paragon argues, however, that its own major subcontractor, ARES, has designed, built, and supported the infrastructure that supports all the application hosting and operations of NSC's various products (including Knowledge Now, which is operated by ARES). See Protester's Comments at 10.

The record supports the reasonableness of the agency's judgment concerning the relative merits of the firms' teaming arrangements. NASA recognized that Paragon's subcontractor, ARES, designed, built and supported NSC's infrastructure for application hosting. In this regard, the agency credited Paragon with a strength under the understanding the requirements subfactor for its IT infrastructure and IT security, which the record shows was based upon Paragon's teaming arrangement. See AR, Tab 23, Final Source Selection Briefing, at 17, 76. Although the SEC recognized the knowledge and expertise of Paragon's team in these areas, the SEC expressed concern that Paragon had failed to discuss its involvement in applications that "Team Paragon" built and was managing. Id. at 76. Although Paragon disagrees with the agency's judgment with respect to the relative merits of the firms' proposed teaming arrangements, the protester fails to show that that the agency's judgment was unreasonable.

Paragon also challenges the agency's assessment of a strength under the understanding the requirements subfactor for Alphaport's proposal of an action tracking system, where Paragon also proposed an action tracking system, for which the protester was not assigned a strength. NASA explains that Alphaport proposed the existing Valador Virtual Action Tracking System, which, in the agency's judgment, would provide "a comprehensive workflow capability to track all actions related to NSC business." AR, Tab 23, Final Source Selection Briefing, at 56. In contrast, NASA found that, although Paragon also proposed an integrated action tracking system, Paragon failed to provide any detail about its system and had not presented evidence that its system presently existed. In response, Paragon disagrees that it failed to detail its proposed system, but does not challenge the agency's conclusion that its

system does not currently exist. Given this, we find reasonable the agency's evaluation of the firms' respective offers of an action tracking system.<sup>9</sup>

#### Past Performance Evaluation

Paragon challenges the agency's evaluation of the offerors' past performance. Specifically, Paragon complains that NASA improperly credited Alphaport for the experience of its subcontractor, Valador, where the RFP did not provide for the evaluation of the experience and past performance of firms that, like Valador, were not major subcontractors.

The agency acknowledges that the SEC considered Valador's experience and past performance in its evaluation of Alphaport's proposal, and essentially concedes that the evaluators should not have done so. See Legal Memorandum at 3. NASA argues, however, that Paragon was not prejudiced. Specifically, NASA notes that Alphaport itself demonstrated comprehensive experience in a majority of the statement of work areas and had highly pertinent past performance. See AR, Tab 23, Final Source Selection Briefing, at 47. NASA also found that Alphaport and its major subcontractor, Triune, together have "experience in all areas of the statement of work but one." Legal Memorandum at 3. The one area that Valador provides, "system failure case studies," involved the production of only one type of report. Id.

We find that, although the SEC's considered Valador's experience and past performance in evaluating Alphaport's proposal, this consideration did not affect the SSA's judgment that Alphaport's experience and past performance was superior to Paragon's. Specifically, the SSA's contemporaneous selection decision shows that the SSA concluded that Alphaport's own experience and past performance was superior to Paragon's, because Alphaport itself had highly relevant past performance and experience, whereas Paragon's own experience and past performance was of limited relevance. In making this determination, the SSA specifically credited Paragon for the highly relevant experience of its major subcontractor, ARES. Nevertheless, the SSA, concluded that "the directly relevant experience of Alphaport and [Paragon's] lack of the same is a meaningful discriminator between the offerors because they are the proposed prime contractors and will be responsible for the

---

<sup>9</sup> The protester also complains that the SSA found Alphaport's proposal superior to Paragon's under the management plan evaluation factor, where the SEC had found the offerors' management plans to be sufficiently similar such that each received the same evaluation rating. Protester's Comments at 8. Contrary to the protester's argument, it is well-settled that an agency's source selection official is not bound by the ratings, conclusions, or recommendations of a subordinate evaluation team. Ass'ns for the Educ. of the Deaf, Inc., B-220868, Mar. 5, 1986, 86-1 CPD ¶ 220 at 5.



management of the overall contract work.”<sup>10</sup> AR, Tab 24, Source Selection Statement, at 8. There is simply no consideration of Valador’s experience and past performance in the SSA’s selection decision.

Also, although the protester complains that it was “denied the opportunity to submit the past performance of a non-major subcontractor,” it does not state that it would have, in fact, provided additional information for a non-major subcontractor, if given the opportunity. See Protester’s Comments at 4-5. Moreover, the agency’s determination that Paragon’s lower level of confidence under the experience/past performance factor was based upon Paragon’s own experience and past performance.<sup>11</sup>

Under the circumstances, the record does not show any reasonable possibility that Paragon was prejudiced by the SEC’s consideration of Valador’s experience and past performance. Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency’s actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. Joint Mgmt. & Tech. Servs., B-294229, B-294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 7.

The protest is denied.

Lynn H. Gibson  
General Counsel

---

<sup>10</sup> Paragon challenges the SSA’s determination that Alphaport’s own more relevant experience and past performance was a discriminator between the two firms. Paragon contends that the SSA’s consideration of experience and past performance was limited to comparing each offerors’ team experience and past performance (that is, considering the prime’s and any major subcontractor’s experience and past performance together), and thus the RFP did not permit the SSA to consider the primes’ own experience to be a discriminator. We disagree that an RFP provision providing for the evaluation of both the prime’s and major subcontractors’ experience and past performance limits an SSA’s judgment in the manner Paragon contends. In any event, the record shows that the SSA did not disregard the experience and evaluation of major subcontractors, but specifically credited Paragon for the experience and past performance of its major subcontractor. AR, Tab 24, Source Selection Statement, at 7-8.

<sup>11</sup> Paragon does not challenge the agency’s determination that the firm has limited relevant experience.