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Washington, DC 20548**

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Decision

Matter of: IAP World Services, Inc.

File: B-406339.2

Date: October 9, 2012

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DIGEST

Protest challenging contracting agency's evaluation of protester's proposal and its exclusion from the competitive range is denied where agency's evaluation and competitive range determination were reasonable and in accordance with the solicitation's evaluation criteria.

DECISION

IAP World Services, Inc., of Cape Canaveral, Florida, protests the Department of the Army's decision to eliminate its proposal from the competitive range under request for proposals (RFP) No. W9124B-11-R-0019, for installation support services at Fort Irwin, California. IAP argues that the Army's evaluation of its proposal, and decision to eliminate it from the competitive range, were unreasonable.

We deny the protest.

BACKGROUND

The RFP contemplates the award of a contract with cost-plus-fixed-fee (CPFF), and fixed-price with cost-reimbursable contract line items, for installation support services. RFP § M.A. The contractor is to provide services, which are detailed in the solicitation's performance work statement (PWS), over a 10-month base period, with up to four 1-year option periods. RFP § B. IAP is the incumbent contractor.

Award was to be made to the best overall offer based on an integrated assessment of four factors: mission capability, past performance, small business participation plan, and cost/price. RFP § M.A. The mission capability and past performance factors are equally important, and significantly more important than the small business participation plan and cost/price factors. The small business participation plan factor is slightly more important than the cost/price factor. All non-cost factors, when combined, are significantly more important than cost/price. RFP § M.B.

The mission capability factor was comprised of four subfactors: management and organization, staffing and qualification approach, quality approach, and technical expertise (experience). The first two and fourth subfactors were equally important, and each was more important than the third subfactor. Id. The subfactors were to be given ratings--excellent, good, acceptable, marginal, or unacceptable--that would be used to determine an overall rating. To be eligible for award, a proposal had to be rated at least acceptable at the factor level. Id.

Under the past performance factor, the agency was to assess the relative risks associated with an offeror's likelihood of success in performing the requirements as indicated by its past performance record. RFP § M.C. Performance risk was to be assessed as excellent, good, adequate, and so on after evaluating the offeror's recent past performance, focusing on performance relevant to the services being procured here. Id. The RFP provided that the government might use data from other sources, such as the past performance information retrieval system (PPIRS). Id.

In evaluating proposals under the small business participation plan factor, the agency was to consider five elements, discussed below.¹ Each element was to be rated as outstanding, good, acceptable, marginal, unacceptable, or neutral. Id.

For the cost/price evaluation, the fixed-price line items were to be evaluated using price analysis techniques and assessed for performance risk. RFP § M.C. For the CPFF line items, the government was to evaluate the realism of the offeror's proposed costs in relation to its mission capability proposal to assess the degree to which proposed costs accurately reflected proposed performance. Costs found too low or too high in relation to the proposed work would be adjusted to determine the most probable cost (MPC). A total evaluated probable cost/price (TEPC/P) would be used to determine best value and would be calculated by adding the fixed-price line items to the evaluated CPFF line items (the MPC) and the government-provided cost-reimbursable not-to-exceed amounts, for all performance periods. Id.

¹ All offerors were required to submit small business participation plans for evaluation as part of the source selection decision. Large businesses, such as IAP, were also required to submit subcontracting plans that would not be evaluated as part of the source selection decision. RFP § M.C.

The Army received and evaluated nine proposals in response to the solicitation. After this initial evaluation, IAP's proposal was eliminated from the competitive range. IAP protested the agency's action to our Office on January 17, 2012. The agency advised our Office that it intended to take corrective action by reevaluating IAP's proposal and reconsidering its competitive range determination. Our Office dismissed the protest as academic. The evaluation teams reconvened to reevaluate IAP's proposal and produced detailed narrative evaluation reports. The contracting officer (CO) and the source selection authority (SSA) reviewed these findings in making a new competitive range determination.

The determination stated that IAP's was among the lowest-rated proposals. It was rated marginal under the mission capability factor, with no strengths or significant strengths, three weaknesses, and three significant weaknesses. One weakness was based on a lack of cost reduction strategies; the other weaknesses and significant weaknesses concerned staffing inadequacies. IAP's past performance was rated good, and its small business participation plan was rated marginal. Agency Report (AR), Exh. 21, Competitive Range Addendum, at 8. The CO acknowledged that IAP's TEPC/P was lower than the median TEPC/P of all offerors. However, she stated that all non-cost factors combined were significantly more important than cost/price, and IAP's staffing shortages posed risks to multiple Fort Irwin functional areas, some of which were of a more critical nature than others in their potential impact to life, safety, and health. The CO found that IAP's lower-evaluated cost/price was significantly outweighed by its low ratings under the non-cost factors, particularly those under the mission capability and small business participation factors. *Id.* at 9. Considering the risks associated with IAP's staffing shortages, the Army was willing to accept potentially higher costs for reduced risk of contract performance. *Id.* at 13. Accordingly, the CO determined, with the SSA's approval, to eliminate IAP's lower-rated proposal from the competitive range. This protest followed.

DISCUSSION

IAP's overarching argument is that, in reevaluating its proposal, the Army used a stricter standard of review than the one it used to evaluate proposals in the initial evaluation, resulting in disparate treatment. IAP's evidence is the fact that strengths identified in its proposal in the initial evaluation were not identified as strengths in the reevaluation, and certain weaknesses identified in its proposal in the initial evaluation were identified as significant weaknesses in the reevaluation.

The fact that a reevaluation varies from an original evaluation does not constitute evidence that the reevaluation was unreasonable. It is implicit that a reevaluation could result in different findings and conclusions. QinetiQ North America, Inc., B-405163.2 *et al.*, Jan. 25, 2012, 2012 CPD ¶ 53 at 13; Sabre Sys., Inc., B-402040.2, B-402040.3, June 1, 2010, 2010 CPD ¶ 128 at 5 n.3. The essence of

an agency's evaluation is reflected in the evaluation record itself, not in the adjectival ratings or adjectival characterizations of proposal features as strengths or weaknesses. See Stateside Assocs., Inc., B-400670.2, B-400670.3, May 28, 2009, 2009 CPD ¶ 120 at 8. The overriding concern is not whether the final ratings are consistent with earlier ratings but whether they reasonably reflect the relative merits of proposals. See Domain Name Alliance Registry, B-310803.2, Aug. 18, 2008, 2008 CPD ¶ 168 at 11 (denying protest that agency reevaluation and technical ratings were unreasonable because agency did not explain why evaluations differed between the initial evaluation and reevaluation undertaken during corrective action); Impregilo Edilizia S.p.A., B-292468.4, Nov. 25, 2003, 2003 CPD ¶ 216 at 5 n.5 (while protester may disagree with technical rating change, its mere disagreement, absent factual or legal basis indicating why awardee's rating was improper, does not present an adequate basis for protest).

Our review of the record does not support IAP's allegation, or its charge that the evaluators manipulated the reevaluation to preserve the agency's original decision. The evaluators were specifically instructed, "Do NOT change your rating standards; evaluate this proposal against the same standards you used for the other offerors." AR, Exh. 15, E-mail Instructions to Technical Evaluators, at 2. There is no evidence that they did not comply with this instruction. Rather, it appears that they complied with the additional instruction to take a "fresh look" at IAP's proposal.² Id. It is that "fresh look" to which we now turn.

IAP challenges nearly every aspect of the evaluation of its proposal, as well as the decision to exclude its proposal from the competitive range.

Where a protest challenges an agency's evaluation and exclusion of a proposal from a competitive range, we first review the propriety of the agency's evaluation of the proposal, and then turn to the agency's competitive range determination. Gov't Telecomm., Inc., B-299542.2, June 21, 2007, 2007 CPD ¶ 136 at 4; Americom Gov't Servs., Inc., B-292242, Aug. 1, 2003, 2003 CPD ¶ 163 at 4. In reviewing such protests, we do not conduct a new evaluation or substitute our judgment for that of the agency, but examine the record to determine whether the agency's judgment was reasonable and in accordance with the terms of the solicitation and applicable procurement statutes and regulations. Wahkontah Servs., Inc., B-292768, Nov. 18, 2003, 2003 CPD ¶ 214 at 4. An offeror's mere disagreement with the agency's

² IAP's contention that agency officials manipulated the reevaluation to preserve the agency's original decision is essentially an allegation of bad faith. Procurement officials are presumed to act in good faith, however, and our Office will not attribute unfair or prejudicial motives on the basis of inference or suppositions. Rather, a protester alleging bias or bad faith must provide convincing proof of the officials' improper motives. Impregilo Edilizia S.p.A., supra, at 6. IAP has provided no such proof.

evaluation is not sufficient to render the evaluation unreasonable. Ben-Mar Enters., Inc., B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

Based upon our review of the record, the agency's evaluation of IAP's proposal and its exclusion from the competitive range was reasonable. Although we do not specifically address all of IAP's arguments, we have fully considered all of them and find that they afford no basis to question the agency's competitive range decision.

Mission Capability Evaluation

The Army found that IAP's mission capability proposal demonstrated an approach that satisfied most performance requirements but, in some instances, failed to provide sufficient detail to demonstrate the feasibility of its approach. AR, Exh. 19, Mission Capability Evaluation Report, at 3. IAP's proposal was rated acceptable under the management and organization subfactor, with a weakness IAP does not challenge. It was rated marginal under the staffing and qualification approach subfactor based on weaknesses and significant weaknesses related to its ability to provide sufficient manpower to support all functional areas. Finally, the proposal was rated acceptable under the quality approach and technical expertise subfactors, with no strengths or weaknesses. In summarizing the basis for IAP's overall marginal rating, the evaluators stated that, "[c]ollectively the weaknesses and the significant weakness[es] regarding [IAP's] ability to provide sufficient manpower and qualifications are flaws in [its] proposal that appreciably increase the risk of unsuccessful contract performance." Id. at 3.

IAP argues that its centralized staffing plan, which included the cross-utilization of staff, is a fundamental feature of its technical approach that the agency unreasonably failed to recognize as a strength under the first two subfactors.

Under the management and organization subfactor, the Army acknowledged IAP's approach to responding to increases/decreases in workload through such things as cross-training and cross-utilization of employees, and centralized work management, but did not view it as a strength. Id. The basis for IAP's allegation that its proposal merited a strength is that it received a strength in the initial evaluation. This is not a sufficient basis to find the evaluation unreasonable. Impregilo Edilizia S.p.A., supra, at 5 n.5.

Under the staffing and qualifications subfactor, offerors were to provide a staffing plan and level to "demonstrate" successful performance of all functional areas in the PWS. RFP § L.C.3.(a). The agency was to evaluate an offeror's "ability to provide sufficient manpower . . . necessary to support all functional areas of this requirement to include staffing to support unscheduled workload, cyclical events, and new and unknown requirements (surge requirements)" RFP § M.C. In responding to IAP's allegation, the CO stated that cross-utilization to cover surge and emergency requirements was acceptable only if there was adequate overall

staffing, and could not compensate for known staffing inadequacies. CO Statement at 7.

IAP objects that the RFP does not limit staff cross-utilization to emergency or surge requirements as indicated by the CO. The record establishes that the evaluators understood IAP's overall staffing approach to apply generally and found it acceptable. The Army's concern, however, was that, surge or no surge, IAP did not demonstrate that it could successfully perform all of the functional areas in the PWS using its approach. As the agency explains, cross-utilized staff will necessarily have to be "borrowed" from another function, leaving the "lending" area unstaffed. AR at 29. In other words, the Army found IAP's overall staffing approach acceptable in principle, but determined that IAP did not demonstrate how it would work in practice. The record bears this out, as shown below in our discussion regarding those areas where the agency identified staffing insufficiencies in IAP's proposal.

The first weakness with respect to IAP's staffing concerned the requirement to perform refuse removal and collection, recycling, and landfill services. IAP proposed to perform these "environmental services" with [DELETED] teams, including a landfill team of [DELETED] full-time equivalents (FTEs) and a recycling team of [DELETED] FTEs. IAP stated that all environmental services employees would be cross-trained and could be assigned to any team as needed. AR, Exh. 10(C), IAP Proposal Vol. I.1-5/6, Fig. 1-3, and Vol. I-38. The Army reviewed the estimated annual workload in the PWS for the landfill and recycling tasks, such as the 20,000 man-hours for landfill tasks alone, and found IAP's staffing for the landfill and recycling requirements insufficient. AR, Exh. 19, Mission Capability Evaluation Report, at 6. In an acknowledgement of IAP's proposal to cross-utilize staff, including staff not encompassed by these FTEs, the Army stated that the other FTEs were assigned to functions that operated simultaneously with the recycling and landfill tasks, making cross-utilization unfeasible. The Army found that this staffing failure could result in notices of violation and fines, as well as potential health and safety hazards. Id.

IAP argues that the tasks lend themselves to staff reallocation. This argument, however, misses the point. The Army does not dispute that staff could, in principle, be reallocated. Instead, the Army believed IAP's proposal did not demonstrate that, in practice, its staff could be effectively reallocated so that all tasks--including those from which they were reallocated--were sufficiently staffed. IAP has not shown this concern was unreasonable.

The second staffing weakness concerned the requirement to provide adequate personnel to operate a "single emergency dispatch center 24/7 covering fire emergencies," and a "single emergency dispatch center 24/7 covering police emergencies." PWS §§ C.8.4.a., C.8.4.b. Although co-located, the fire and police dispatch services are two distinct operational requirements. RFP Amend. No. 0003, Question and Answer No. 141. The centralized dispatching center is to receive 911

and non-emergency calls requiring response from the fire and/or police departments. Dispatchers, who must be trained and certified, are to screen all calls to determine appropriate response and routing. At least 90 percent of the calls must have an accurate dispatch action appropriately forwarding the call within 60 seconds. AR, Exh. 19, Mission Capability Evaluation Report, at 6. The Army found IAP's proposal of [DELETED] FTEs to operate two 24-hour services insufficient, and cited the risks associated with failure to timely respond to emergencies. Id. at 6-7.

While IAP's technical proposal is vague, both its staffing levels and its pleadings suggest that, at times, one dispatcher will be on duty to receive and properly route both police and fire calls. Since the timing and frequency of emergencies are unpredictable, a single dispatcher may receive more than one call in a short period of time, which could compromise his or her ability to properly and timely route the calls.³ IAP asserts that, if this happens, its "operators" are instructed to answer the calls on a priority basis. This contingency is not in IAP's proposal, and there is no indication that these operators are on duty "24/7," or that they are trained and certified dispatchers. The potential consequences of insufficient staffing here are self-evident, and we have no basis to find the agency's evaluation unreasonable.

The first significant staffing weakness concerned the requirement to provide a "dedicated team" to "fully perform" maintenance services associated with preventive maintenance, code compliance, corrective maintenance, and repair/replacement programs at a hospital and other medical facilities. These responsibilities cover 19 facilities and involve an estimated 2,520 work orders annually. Id. at 7. IAP proposed to perform these tasks with [DELETED]. The Army found that this staffing was insufficient and did not have the skill sets to accomplish all required work.⁴ This could result in a backlog of work requests and preventive maintenance orders, in non-compliance of standards and life safety codes, and could impact the quality of patient care. Id.

IAP argues that its proposed staffing is adequate based on its past performance as the incumbent, which it contrasts with the evaluator's "unsubstantiated expertise." Protest at 26. IAP's past performance is not a substitute for a demonstration in its proposal that it can meet the staffing requirements with its approach. See Career

³ IAP also proposes that the dispatch center take on the additional burden of fielding after hours work requests and taking action to respond to service/repair calls.

⁴ The Army elaborated on its skill set concern in its supplemental report. IAP does not challenge the substance of the concern, but asserts that the explanation is not contemporaneous. Post-protest explanations that provide a detailed rationale for contemporaneous conclusions, such as these, are generally considered in our review. NWT, Inc.; PharmChem Labs, Inc., B-280988, B-280988.2, Dec. 17, 1998, 98-2 CPD ¶ 158 at 16.

Training Concepts, Inc.--Advisory Opinion, B-311429, B-311429.2, June 27, 2008, 2009 CPD ¶ 97 at 5. IAP also cites its proposal's statement that its facility maintenance branch is prepared to support this dedicated crew. However, the PWS required a "dedicated team" to "fully perform" the requirements. The agency's concern was that IAP's "dedicated team" could not "fully perform" the requirements, and the cited statement supports this concern.

The next significant weakness concerned the requirement to provide locksmith maintenance and repair activities. The evaluators described these activities and the estimated workload of 4,160 hours annually. AR, Exh. 19, Mission Capability Evaluation Report, at 7-8. IAP's proposal stated that all work requests would be performed by a certified locksmith, but provided [DELETED] to meet the requirements. The Army explains that, assuming an FTE of 1,860-2,000 man-hours, on the basis of hours alone, [DELETED] of the workload would be uncovered. The Army found that IAP's staffing was insufficient and that it failed to demonstrate an approach that would allow it to perform the requirements with that staffing. This failure impacts the government's ability to properly secure or gain access to all of its facilities and equipment in a timely manner. Id. at 8.

IAP argues that not all tasks had to be performed by a locksmith, and some could be performed by a carpenter. IAP did not include this approach in its proposal, however. IAP also argues that it proposed a supervisor to oversee all work requests, and implies that its centralized staffing approach would permit the supervisor to route some tasks to others. This assertion, however, is not consistent with IAP's proposal, which states that all work requests will be performed by the locksmith. AR, Exh. 10(C), IAP Proposal Vol. I.1-29. We have no basis to find the evaluation unreasonable.

The final significant staffing weakness concerned the requirement to manage and maintain a warehouse of parts and materials. The evaluators described the tasks and the estimated workload of 2,000 operational hours annually. In light of the tasks and workload, the agency found that IAP's proposal of [DELETED] to manage the warehouse during operational hours and to perform all of the other PWS functions was insufficient. The agency also found that IAP failed to demonstrate a specific approach that would allow it to perform the requirements with its proposed staffing. AR, Exh. 19, Mission Capability Evaluation Report, at 8. This had the potential to result in a backlog of work requests and preventive maintenance orders, in noncompliance with life, health, and safety codes. Id.

IAP argues that the agency's concerns were unreasonable since its proposal provided for additional oversight and workflow coordination from work control and property managers. However, it is not apparent from the proposal how this "coordination" will affect the workload of this [DELETED]. IAP also argues that one FTE accounts for 1,880 hours per year, and rejects the notion that its proposal could not accommodate the estimated workload of 2,000, which would require only

an additional [DELETED] operational hours. IAP's approach might accommodate this possibility in principle, but its proposal does not address it.⁵ Thus, we have no basis to question the evaluation.

IAP argues that the evaluation report's narrative descriptions of these significant weaknesses do not support their characterizations as "significant weaknesses." The RFP defined a "significant weakness" as a flaw in the proposal that "appreciably increases the risk of unsuccessful contract performance," and the narrative descriptions here state that each concern is a flaw that "increases the risk of unsuccessful contract performance," without including the modifier "appreciable."

IAP's narrow focus on the adjectival characterization of the agency's concerns is not dispositive. Whether assigned to a factor, proposal feature, or a proposal overall, adjectival ratings and characterizations serve only as a guide to intelligent decisionmaking. See Stateside Assocs., Inc., supra, at 9. The essence of the evaluation is reflected in the evaluation record. The CO states that the word "appreciable" is mistakenly absent from the narrative descriptions, but argues that their substance supports the agency's findings that each was a significant weakness. IAP has given us no reason to disagree. Moreover, in summarizing why IAP's proposal was rated marginal overall, the evaluators stated that, "[c]ollectively the weaknesses and the significant weakness[es] regarding [IAP's] ability to provide sufficient manpower and qualifications are flaws in [IAP's] proposal that "appreciably increase the risk of unsuccessful contract performance." Exh. 19, Mission Capability Evaluation Report, at 3. As a consequence, whether the individual concerns were identified as weaknesses or significant weaknesses is irrelevant.

Turning to the remaining subfactors, the Army evaluated IAP's proposal as acceptable under the quality approach subfactor with no strengths or weaknesses. IAP argues that its proposal should have received a strength for including a certain software package for issue management and tracking because it ensures exceptional performance, enhances the merits of its proposal, and increases the probability of successful performance.⁶ The Army states that this software package is a tool to help IAP obtain an accurate understanding of outstanding issues, but

⁵ The Army explains that operational hours refers to the warehouse's hours of operation; the man-hours required to perform the PWS tasks would exceed that number. We also note that IAP assigned an additional PWS task to this [DELETED], disposing of excess inventory, without explaining the impact on [DELETED] ability to perform the warehouse management task. AR, Exh. 10(C), IAP Proposal Vol. I.1-27.

⁶ IAP also argues that its track record of quality compliance merited a strength. The Army was not to evaluate IAP's past performance under this subfactor but, rather, its approach to quality control. RFP § M.C. ("[t]he Government will evaluate the Offeror's approach to Quality Control (QC).").

that it did not merit a strength. IAP's view that the software was an obvious strength reflects mere disagreement with the agency and is not sufficient to find the evaluation unreasonable. Ben-Mar Enters., Inc., supra. For the same reason, under the technical expertise subfactor, IAP's argument that the Army failed to identify an obvious strength regarding its unparalleled experience is not sufficient to show that the evaluation was unreasonable.

In conclusion, we have no basis to find the evaluation of IAP's mission capability proposal unreasonable. While the record is clear that the shortcomings in IAP's mission capability proposal were the basis for the firm's exclusion from the competitive range, we briefly address IAP's remaining evaluation challenges.⁷

Past Performance Evaluation

IAP primarily argues that the Army's past performance evaluation was based on irrelevant information, and contends that there was no justification for assigning its proposal a good rating instead of an outstanding rating.

An agency's evaluation of past performance, which includes its consideration of the relevance, scope, and significance of an offeror's performance history, is a matter of discretion which we will not disturb unless the agency's assessments are unreasonable, inconsistent with the solicitation criteria, or undocumented. L-3 Sys. Co., B-404671.2, B-404671.4, Apr. 8, 2011, 2011 CPD ¶ 93 at 4; Family Entertainment Servs., Inc., d/b/a IMC, B-291997.4, June 10, 2004, 2004 CPD ¶ 128 at 5. IAP's arguments, as discussed below, are without merit.

As an initial matter, we note the past performance evaluation report states that the evaluator conducted an in-depth review and evaluation of IAP's past performance proposal, past performance questionnaires (PPQs), and Contractor Performance Assessment Reports (CPARs). The report indicates that the evaluator performed the evaluation as if the original review had not been done. It also indicates that he reviewed the same PPQs because no additional PPQs were available, and that he retrieved new CPARs. AR, Exh. 17, Past Performance Evaluation Report, at 1-2.

The evaluation report describes the PPQs and CPARs reviewed for contracts identified in IAP's proposal, and for CPARs retrieved for other contracts. In rating

⁷ In light of our conclusion, we need not consider IAP's argument that the cost realism adjustment was based on a flawed technical evaluation. IAP also alleges that the adjustment was "suspect" because it resulted in almost the same adjustment as in the initial evaluation. Despite its access to the detailed cost evaluation documents, IAP has made no specific challenges in this regard. Its focus on the differences between the first and second adjustment is not a sufficient basis of protest.

IAP's proposal as good, the evaluator explained that IAP had mostly excellent performance ratings under one contract, but its performance under others had been adequate. He states that the ratings IAP received under its Fort Irwin contract were positive, with the majority of the ratings in the PPQ being good (no CPAR was available). He also found that most of IAP's proposed subcontractors had very positive past performance, noting just one issue for one subcontractor on one contract. He stated that the subcontractors, considered as a whole, positively affected the overall rating. Id. at 4.

IAP argues that the Army failed to review the information in its proposal concerning its Fort Irwin contract, citing such things as its positive award-fee ratings and customer survey satisfaction results. However, the evaluator states that he reviewed IAP's proposal, and the mere fact that this information is not discussed or relied on in the evaluation report does not show otherwise. Moreover, it was not unreasonable for the agency to rely on the results of the PPQ; unlike the award fee determinations, the PPQ was tailored to assess past performance as it related specifically to performance under this RFP. See DeLeon Tech. Servs., Inc.; TekStar, Inc., B-288811 et al., Dec. 12, 2001, 2002 CPD ¶ 10 at 5.

IAP also argues that the agency deliberately sought out negative past performance information when searching for CPARs for contracts not listed in its proposal, citing one CPAR in particular. There is simply no proof for this allegation of bad faith. See Impregilo Edilizia, S.p.A., supra, at 6. Moreover, to the extent IAP's satisfactory ratings can be considered negative, its impact on the overall rating appears negligible. IAP also asserts that this CPAR was not relevant because the concerns it identified--issues with schedule, business relations, and management of key personnel--were associated with the logistics portion of the contract. We do not agree; the RFP states that schedule, business relations, and management of personnel and materials are areas for evaluation here.⁸

Small Business Participation Plan Evaluation

The agency considered five elements in evaluating small business participation plans (SBPP), three of which are relevant to the protest: (1) the "extent [to] which the small business programs listed in FAR Part 19 and Part 26 (small business, small disadvantaged business, woman-owned small business, HUBZone small business, service-disabled veteran-owned small business, Historically Black Colleges and Universities/Minority Institutions [(HBCU/MIs)], etc.) are specifically identified"; (2) the complexity and variety of the work small business firms are

⁸ IAP asserts that its overall rating underweighted the past performance of its subcontractors. The evaluation report states that their past performance positively affected the overall rating; there is no evidence that the subcontractor's past performance mandated an overall rating of outstanding.

proposed to perform; and (3) the extent of participation of small business firms on this acquisition in terms of the value of the total acquisition, represented both in dollars and percentages for the base year and for each individual option period. RFP § M.C.

The Army evaluated IAP's plan as marginal overall, with ratings of good, outstanding, acceptable, marginal, and unacceptable for the five elements, respectively. The summary of the overall rating focused on the Army's view that it could not validate the extent of participation of small business firms in terms of the value of the total acquisition because the figures in IAP's SBPP did not reconcile. AR, Exh. 17, SBPP Evaluation Report, at 1.

In considering the extent to which the small business programs listed in FAR Part 19 and Part 26 were specifically identified in IAP's plan, the Army evaluated IAP's proposal as good. The evaluator explained that IAP identified small businesses representing five of the six programs listed in the RFP, and not HBCU/MIs. Id. at 2.

IAP notes that, for this element, the RFP defined an outstanding rating as "[small business firms] are identified by name in each category proposed." IAP argues that, based on this language, as long as it identified small businesses in each category it "proposed," it was entitled to an outstanding rating.

To be reasonable, an interpretation of solicitation language must be consistent when read as a whole and in a reasonable manner. AHNTECH Inc., B-291998, Apr. 29, 2003, 2003 CPD ¶ 90 at 2. When the RFP's definition of an outstanding rating is read in isolation, an offeror that proposed to subcontract to one category of small business would be entitled to the same rating as an offeror that proposed to subcontract to all six categories. This reading is inconsistent with the RFP instruction that plans would be evaluated for the extent to which the listed programs are specifically identified. RFP § M.C. Further, offerors were required to submit plans in accordance with DFARS § 215.304; that provision requires the evaluation of the extent to which offerors identify and commit to small business and HBCU/MI performance. Thus, the Army acted reasonably and consistent with the RFP's terms when it assigned higher ratings to offerors proposing to use these programs to a greater extent. Thus, we have no basis to question IAP's rating of good.

In considering the complexity and variety of the work small business firms were proposed to perform, the Army evaluated IAP's proposal as acceptable. For this element, the RFP defined acceptable as "some variety of work to be performed by [small business firms] (absent technically complex work)." RFP § M.C.

Five of the ten small business subcontractors in IAP's plan were proposed to provide materials and supplies, which the Army did not find notable. The agency found that the remaining subcontractors would perform work in the areas of such things as landscaping, sports field and trail maintenance, pest control, custodial

services, equipment maintenance, and the operation and maintenance of the intrusion detection and fire alarm systems. The Army determined that all of these tasks combined to make the variety of work and complexity of work to be performed by small businesses acceptable. AR, Exh. 17, SBPP Evaluation Report, at 3.

Focusing primarily on the firm it proposed to operate and maintain the intrusion detection and fire alarm systems, IAP argues that its work on past contracts has been “highly technical” and the PWS tasks here are “undeniably complex.” Comments at 31, Supp. Comments at 12. Whether or not this is the case, IAP has made no showing that the tasks to be performed here are “technically complex,” and we have no basis to question the evaluation.

Finally, in considering the extent of participation of small business firms in terms of the value of the total acquisition, the Army evaluated IAP’s proposal as unacceptable because it could not validate the extent of participation and because IAP’s plan did not include this information in dollars and percentages for the base year and for each option period. AR, Exh. 17, SBPP Evaluation Report, at 4.

IAP’s SBPP proposal listed the total contract value, including options, as \$113,303,927, and the total dollar value of its participation as the prime contractor at \$[DELETED]. AR, Exh. 10(I), IAP Proposal at III.A-1. The evaluator logically subtracted the latter figure from the former to arrive at an amount of \$[DELETED] that could be available to subcontract to small business. AR, Exh. 17, SBPP Evaluation Report, at 1. However, on the same page of IAP’s proposal, a table entitled “[d]ollar value and percentages of total contract value of planned subcontracts” lists the total dollar value of subcontracts planned for small business as \$[DELETED], or [DELETED] percent. AR, Exh. 10(I), IAP Proposal at Vol. III.A-1. It is this discrepancy that the agency could not reconcile.

According to IAP, the figure inserted as the “total dollar value of its participation as the prime contractor” is a mathematical error and that, if this error is set aside, the figures in its table internally reconcile. While IAP accuses the agency of a “stubborn refusal to apply simple math,” the agency reasonably viewed IAP’s alleged mathematical error as an unexplained discrepancy. Despite IAT’s contentions, this discrepancy would not have been explained or eliminated had the evaluator reviewed IAP’s subcontracting plan or cost proposal.

However, we agree with IAP that the agency could have considered the extent of participation of small business firms in its proposal using the smaller figure of \$[DELETED]. See FN Manufacturing, LLC, B-402059.4, B-402059.5, Mar. 22, 2010, 2010 CPD ¶ 104 at 14 n.9. We cannot say how this would have affected the results, given the dollar value and the failure of IAP’s plan to break out its participation in terms of the base year and option periods. Nevertheless, even if IAP’s rating for this element were higher, and even if it had received a higher rating overall for this factor, there is no basis to reasonably conclude that IAP suffered any

prejudice. As discussed below, the basis for IAP's exclusion from the competitive range was its mission capability proposal.

Competitive Range Determination

Contracting agencies are not required to retain in the competitive range proposals that are not among the most highly rated or that the agency otherwise reasonably concludes have no realistic prospect of being selected for award. FAR § 15.306(c); Wahkontah Servs., Inc., supra, at 5. Further, a protester's mere disagreement with an agency's competitive range judgment does not establish that the agency acted unreasonably. Gov't Telecomms., Inc., supra.

The Army found that IAP's proposal was one of the lowest-rated of the nine proposals received. Even if IAP's proposal were rated higher under the SBBP factor, the least important technical factor, the record establishes no reasonable possibility that its proposal would be considered to be among the most highly-rated offers. The basis for the agency's determination clearly turned on the concerns it had with IAP's mission capability proposal, and there is no evidence that a higher-rated SBBP proposal would have allayed these concerns.

IAP argues that the Army improperly used the mission capability factor as a "go/no go" factor.⁹ We do not agree. It is true that the determination rested on the findings for IAP's mission capability proposal, one of the two most important factors. As the Army explains, if IAP were awarded the contract as proposed, critical functions essential to life, health, and safety would be at risk. AR at 43. However, that the determination rested on these findings does not mean the other aspects of IAP's proposal were not considered. In making her competitive range determination, the CO acknowledged IAP's ratings for the past performance and SBBP proposals, and specifically considered IAP's lower cost/price. In this regard, she found that, considering the risks associated with IAP's identified staffing shortages, including life, safety, and health risks, the government was willing to accept potentially higher costs for reduced risk of contract performance.

Although IAP disagrees with the CO's competitive range judgment, the protester has failed to show that the agency unreasonably concluded that its proposal was not among the most highly rated offers for inclusion in the competitive range.

The protest is denied.

⁹ With respect to the discrepancy in IAP's SBBP proposal, the CO's reference to the mission capability factor as a "gate-keeping" issue simply meant, as she states, that correcting the discrepancy would not have resolved the Army's main concern, IAP's understaffing.

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