

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

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## Decision

**Matter of:** Metis Solutions, LLC; TASA Information Technology Group, Inc.; TENICA and Associates, LLC; Dynamic Systems Technology, Inc.; Brandan Enterprises, Inc., TEK Source USA, Inc.

**File:** B-411173.2; B-411173.4; B-411173.5; B-411173.6; B-411173.7; B-411173.8; B-411173.9

**Date:** July 20, 2015

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Hattie Russell DuBois, Esq., Department of Defense, Defense Human Resources Activity, for the agency.

Scott H. Riback, Esq., and Tania Calhoun, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Protests that agency misevaluated proposals and made an unreasonable source selection decision are sustained where record fails to show that agency had a reasonable basis for its evaluation of proposals and its evaluation was not consistent with the terms of the solicitation; and agency's source selection decision failed to make a reasoned comparison of proposals or articulate why award to the selected firm was reasonable.

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### DECISION

Metis Solutions, LLC, of Arlington, Virginia; TASA Information Technology Group, Inc., of Greenbelt, Maryland; TENICA and Associates, LLC, of Alexandria, Virginia; Dynamic Systems Technology, Inc. (DST) of Fairfax, Virginia; Brandan Enterprises,

Inc., of Knoxville, Tennessee; and TEK Source USA, Inc., of Tampa, Florida, protest the award of a contract to Interactive Government Holdings, Inc. (IGH), of Washington, D.C., under request for proposals (RFP) No. H98210-15-R-0001, issued by the Department of Defense, Defense Human Resources Activity (DHRA), to acquire support staff services for the Family Employer Programs and Policy Office, a component of DHRA. The protesters allege that the agency misevaluated proposals and made an unreasonable source selection decision.<sup>1</sup>

We sustain the protests.

## BACKGROUND

The RFP, issued as a total small business set-aside, contemplates the award of a fixed-price contract for a 1-year base period and two 1-year option periods to the firm submitting the proposal deemed to offer the best value to the government, considering price and two non-price considerations. RFP at 6, 70-73. Specifically, the RFP provided that the agency would evaluate proposals considering the non-price factors of technical and past performance; these factors were listed in descending order of importance and were deemed, collectively, to be significantly more important than price. RFP at 71. The technical factor included three equally-weighted subfactors: technical approach and methodology, project management plan, and quality control plan.<sup>2</sup> RFP at 70-71. The past performance factor had two equally-weighted criteria: relevancy and performance risk evaluation.<sup>3</sup> RFP at 71. Finally, the RFP advised offerors that the agency would evaluate prices for fairness and reasonableness. RFP at 71.

The agency received a large number of proposals in response to the RFP. The agency evaluated proposals and assigned the following ratings to the proposals submitted by the protesters and the awardee:

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<sup>1</sup> Another concern also protested the agency's award of a contract to IGH. That firm raised a small business issue unrelated to the agency's evaluation of proposals. In a separate decision, we denied that protest. Task Source/Military Personnel Services Corp. FFEP, LLC, B-411173.3, July 8, 2015, 2015 CPD ¶ \_\_\_\_.

<sup>2</sup> The agency was to assign adjectival ratings of outstanding, acceptable, marginal, or unacceptable under the technical evaluation factor. RFP at 71-72.

<sup>3</sup> The agency was to assign relevancy ratings of very relevant, relevant, somewhat relevant, or not relevant for each past performance example submitted by the offerors, and overall performance confidence ratings of substantial confidence, satisfactory confidence, limited confidence, no confidence, or unknown confidence. RFP at 71-73.

	Technical Rating	Performance Confidence Rating	Price
<b>Metis</b>	Marginal	Satisfactory Confidence	\$35,998,858
<b>TASA</b>	Marginal	Satisfactory Confidence	\$39,668,419
<b>TENICA</b>	Acceptable	Satisfactory Confidence	\$41,078,832
<b>DST</b>	Marginal	Satisfactory Confidence	\$38,168,375
<b>Brandan</b>	Marginal	Satisfactory Confidence	\$41,197,582
<b>TEK Source</b>	Acceptable	Satisfactory Confidence	\$40,340,081
<b>IGH</b>	Outstanding	Satisfactory Confidence	\$48,899,509

Agency Report (AR), exh. 15, Source Selection Decision Document (SSDD) at 27-28.<sup>4</sup> Based on these evaluation results, the agency made award to IGH (the highest-rated, highest-priced offeror) on the basis of initial proposals. After being advised of the agency’s source selection decision and requesting and receiving debriefings, the protesters filed their respective protests in our Office.

## PROTESTS

The protesters have, collectively, raised numerous allegations. We have reviewed all of the allegations, and sustain the protests for the reasons discussed below. Our discussion focuses on our principal areas of concern--the agency’s technical evaluation, past performance evaluation and source selection decision--and uses specific protest allegations for illustrative purposes, although we do not discuss all of the allegations raised. Any remaining protest allegations not related to these broad areas of concern are denied.

### Technical Evaluation

The protesters challenge several aspects of the agency’s technical evaluation of proposals. In reviewing protests concerning an agency’s evaluation of proposals, we do not independently review proposals; rather, we review the record to ensure that an agency’s evaluation is reasonable and consistent with the terms of the solicitation, as well as applicable statutes and regulations. Intelligent Decisions, Inc., et al., B-409686 et al., July 15, 2014, 2014 CPD ¶ 213 at 15-16. While we will not substitute our judgment for that of the agency, we will sustain a protest where

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<sup>4</sup> The agency produced separate reports for each protest. Nonetheless, each report uses the same exhibit numbering system for the central exhibits (the solicitation and one amendment thereto (exhibits 4 and 5); the SSDD (exhibit 15); the Technical Evaluation Board (TEB) Report (exhibit 13); the Past Performance Evaluation Board (PPEB) Report (exhibit 14), the Source Selection Evaluation Board (SSEB) Report (exhibit 16); and the awardee’s proposal (exhibits 7, 8 and 9). Citations in this decision to the central exhibits are to the AR; citations to exhibits unique to a particular agency report identify the specific agency report (for example, Metis AR). All citations in our decision are to the actual page numbers of the exhibits.

the agency's conclusions are inconsistent with the solicitation's evaluation criteria, inadequately documented, or not reasonably based. Id. For the reasons discussed below, we find the agency's evaluation of technical proposals unreasonable.

#### Assignment of Proposal Weaknesses

Several protest allegations relate to the agency's assignment of weaknesses to the respective proposals. In reviewing the record, we find that, in many instances, the agency either did not have a reasonable basis for assigning the weaknesses identified, or if it assessed weaknesses, it did so inconsistently.

For example, TASA alleges that the agency unreasonably assigned its proposal a significant weakness for failing to describe its quality control plan. In this connection, the record shows that the agency assigned the significant weakness because TASA's proposal referenced a sample quality assurance surveillance plan (QASP) but the actual QASP was included in an appendix to its technical proposal, and not within the 35 page limit permitted by the RFP for technical proposals. See RFP at 33; AR, exh. 13, TEB Report, Consensus Summary Report (CSR), at 3; Consensus Approved Strengths and Weaknesses Report (CASWR), at 23.<sup>5</sup> TASA concedes that its QASP was, in fact, included in an appendix to its proposal, but that it was submitted simply as an example of a typical QASP that the firm uses. TASA maintains that the RFP did not require submission of a QASP as part of its technical proposal and that its proposal adequately describes its quality control program. TASA therefore contends that the agency erred in assigning its proposal a significant weakness for this reason.

We agree that the agency's evaluation of this aspect of the TASA proposal was unreasonable. The RFP evaluation criteria for an offeror's quality control plan provided as follows:

The proposal shall describe the Offeror's approach for instituting and maintaining a capability to ensure the quality and integrity of services/products, including at least: (1) management and task controls to assure work will be completed as required; (2) contingency plans for identifying and correcting problems; (3) and steps that would be taken to assure timely delivery of quality products.

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<sup>5</sup> The TEB report, AR, exh. 13, includes two separate documents, one entitled "Consensus Summary Report" and a second entitled "Consensus Approved Strengths and Weaknesses.". The documents appear largely duplicative (with minor exceptions); however, the Consensus Summary Report also included adjectival ratings.

RFP at 71. Nothing in this evaluation element requires the offeror actually to submit a quality control plan as part of its technical proposal.<sup>6</sup> Rather, it requires the offeror to describe its approach to maintaining a capability to ensure the quality of its services and products. Here, the record shows that TASA's proposal included an extensive discussion of its approach to quality control that the agency appears not to have considered in connection with its review of the firm's proposal. TASA AR, exh. 11, TASA Technical Proposal, Vol. II, at 29-31. In addition, as noted, TASA also included a sample QASP, in accordance with the RFP instructions. Id., Appendix B. In short, we find that the agency unreasonably assigned the TASA proposal a significant weakness for this reason.<sup>7</sup>

As for the inconsistent assignment of weaknesses, the record shows, for example, that the agency assigned a weakness to the Metis proposal for failing to include a definitive list of reports and deliverables, along with the dates on which those reports and deliverables would be provided, citing PWS sections 5 and 6. AR, exh. 13, TEB Report, CSR at 26, CASWR at 18. (A list of required reports and

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<sup>6</sup> The RFP instructions to offerors stated that offerors should provide a quality control plan in accordance with the terms of the solicitation's performance work statement. RFP at 33. However, this requirement does not appear in the RFP's evaluation subfactor for a quality control plan quoted above. Agencies are required to evaluate proposals based on the evaluation factors stated in the solicitation; while a solicitation may establish additional informational, technical, administrative, or other requirements, those requirements properly may not be considered in connection with the evaluation of proposals, unless those additional requirements also are specified as a basis for proposal evaluation. Alanna Orr, B-310966.2, May 14, 2008, 2008 CPD ¶ 95 at 2-3; see also SWR Inc., B-286044.2, B-286044.3, Nov. 1, 2000, 2000 CPD ¶ 174 at 4 (quality control and phase in plans were mandatory parts of every proposal, but solicitation provided that only price and past performance would be evaluated).

<sup>7</sup> In a similar vein, the record shows that the agency assigned the TASA proposal a separate weakness for failing to respond to the RFP's requirement to describe the offeror's security training plan to ensure that employees and volunteers having access to personally identifiable information (PII) have adequate and timely training. See generally, RFP Technical Evaluation Factor, Technical Approach and Methodology subfactor, RFP at 70, and PWS sections 4.3 and 4.3.1, RFP at 8. The basis for the agency's assignment of this weakness was that TASA had included its PII policy statement as an appendix to its proposal. AR, exh. 13, TEB Report, CSR, at 31; CASWR, at 22. However, as with the significant weakness assigned to the TASA proposal for its inclusion of its QASP in an appendix, the agency appears not to have considered those portions of the TASA technical proposal describing how TASA would provide this training. TASA AR, exh. 11, TASA Technical Proposal, Vol. II, at 13-14 describing the firm's security training program.

deliverables was included in sections 5 and 6 of the PWS, RFP at 19-21.) Metis concedes that it did not include such a comprehensive list in its proposal because the RFP cautioned offerors not to “parrot back” the PWS, and because firms also were limited to 35 pages for their technical proposals.

A review of the IGH proposal, however, shows that the awardee also did not include a list of these same deliverables anywhere in its technical proposal. AR, exh. 8, IGH Technical Proposal, Volume II. The record includes no explanation for the agency’s apparent disparate assignment of weaknesses to the two proposals in this area, despite the fact that both proposals appear to lack exactly the same information. We therefore conclude that the record also shows that the agency assigned weaknesses to the proposals in an inconsistent manner.

In sum, we find that the agency’s evaluation of proposals was unreasonable insofar as the assignment of weaknesses was concerned. In numerous instances, the record shows that the agency assigned weaknesses or significant weaknesses where it was not reasonable to do so in light of the terms of the RFP. In other instances, the record shows that the agency inconsistently assigned proposal weaknesses, despite the same apparent faults in the offerors’ proposals, and the record contains no explanation for these inconsistencies.

#### Unexplained Discrepancies in the Evaluation Record

In addition to the concerns outlined above, the record includes unexplained discrepancies in the evaluation of proposals between the TEB report and the SSEB report. In this connection, the record shows that, in numerous instances, the SSEB report describes the evaluation results in materially different terms than the TEB report, but does not include any explanation for the differences in the evaluation results. The record also shows that the agency’s source selection official relied on the evaluation results as they were portrayed in the SSEB report.

While source selection officials and higher-level evaluators are free to disagree with the evaluation findings of lower-level evaluators, such disagreement must be both reasonable (that is, consistent with the terms of the RFP, and with applicable statutes and regulations) and also adequately documented in the contemporaneous record. Prism Maritime, LLC. B-409267.2, B-409267.3, Apr. 7, 2014, 2014 CPD ¶ 124 at 5 (protest sustained where source selection authority disagreed with lower-level evaluators’ findings, but such disagreement did not withstand scrutiny or provide a reasonable basis for concluding that proposals were technically equal). The record here contains no explanation for the discrepancies between the TEB report and the SSEB report.

For example, the record shows that the TEB assigned the IGH proposal a total of 8 strengths and one weakness, and an overall adjectival rating of acceptable. AR, exh. 13, TEB Report, CSR, at 23-25, CASWR at 16-17. In contrast, a review of the

SSEB report shows that the one weakness identified in the TEB report is absent from the SSEB report.<sup>8</sup> AR, exh. 16, SSEB Report, at 2-3. In addition, the SSEB report includes only 7 strengths for IGH, one of which (strength No. 2) is not mentioned in the TEB Report. Id. at 2.<sup>9</sup> In addition, IGH's adjectival rating in the SSEB report was elevated from acceptable to outstanding.

There is no explanation in either the contemporaneous record or in the agency's submissions during the protest to account for these differences, and the record shows that IGH's outstanding adjectival rating played a central role in the agency's source selection decision.

Other, similar, significant, unexplained discrepancies between the TEB report and the SSEB report exist. For example, in evaluating the proposal of TEK Source, the record shows that the TEB assigned its proposal seven strengths and one weakness, and assigned the proposal an adjectival rating of acceptable, essentially rating it as approximately equivalent to the IGH proposal in terms of assigned strengths and weaknesses, and adjectival rating. AR, exh. 13, TEB Report, CSR, at 36-38, CASWR, at 26-27. In comparison, the SSEB report identifies only two strengths and one weakness for the Tek Source proposal, and assigns it an acceptable rating. AR, exh. 16, SSEB Report, at 6-7. There is no explanation in the record regarding why the SSEB apparently disagreed with the TEB, or why the SSEB decided not to identify the five strengths found by the TEB in its report.

In sum, the record shows that there are significant unexplained anomalies between the TEB evaluation and the SSEB evaluation of the proposals. These anomalies

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<sup>8</sup> The weakness identified in the TEB report relates to the adequacy of the IGH proposal in connection with PWS requirements 4.21 through 4.21.5.4. AR, exh. 13, TEB Report, CSR, at 23, CASWR, at 17. Essentially, the evaluators criticized the firm for giving only a limited/indirect demonstration and implementation of these PWS sections. The record shows that the agency assigned both the Metis proposal and the Brandan proposal a significant weakness for failing to provide a specific demonstration of how those firms would accomplish these same PWS requirements. AR, exh. 13, TEB Report, CSR, at 27, CASWR, at 2, 19; AR, exh. 16, SSEB Report, at 8, 11. The record contains no explanation regarding why, despite apparently identical proposal flaws, two firms were assigned a significant weakness and one firm, ultimately, was not assigned any weaknesses.

<sup>9</sup> The TEB report includes a strength (identified as strength No. 96) that is entirely different than the strength identified in the SSEB report. Inexplicably, despite the fact that the two strengths described are entirely different, both cite to the same page and figure of the IGH proposal, as well as the same section of the PWS--page 12, figure 1.1.14 of the IGH proposal, and PWS section 4.14. Compare AR, exh. 13, TEB Report, CSR, at 23, CASWR at 16 with AR, exh. 16; SSEB Report, at 2.

are unexplained in the record and, under the circumstances, we find that the agency's technical evaluation is not reasonable and is inconsistent with the solicitation's evaluation plan.

In view of the foregoing discussion, we sustain the protesters' challenges to the agency's technical evaluation of proposals.

#### Past Performance Evaluation

The protesters challenge the agency's evaluation of proposals under the past performance evaluation factor. As noted above, all of the protesters, along with the awardee, received the same ratings (satisfactory confidence) under the past performance evaluation factor. AR, exh. 15, SSDD, at 27-28. The protesters challenge the assignment of a satisfactory confidence rating to IGH's past performance, principally on the basis that the past performance examples identified in the IGH proposal should not have been found relevant. The protesters also allege that, because the agency received no information about the quality of IGH's performance under its past performance examples, it was unreasonable to assign the firm a satisfactory confidence rating.

We sustain this aspect of the protests. As a general matter, the evaluation of an offeror's past performance is within the discretion of the contracting agency, and we will not substitute our judgment for reasonably based past performance ratings. Computer Sciences Corp. et al., B-408694.7 et al., Nov. 3, 2014, 2014 CPD ¶ 331 at 12. However, we will question an agency's evaluation conclusions where they are unreasonable or undocumented. OSI Collection Servs., Inc., B-286597, B-286597.2, Jan. 17, 2001, 2001 CPD ¶ 18 at 6. The critical question is whether the evaluation was conducted fairly, reasonably, and in accordance with the solicitation's evaluation scheme. Honeywell Tech. Solutions, Inc., B-400771, B-400771.2, Jan. 27, 2009, 2009 CPD ¶ 49 at 22.

#### Assignment of Relevancy Ratings for Past Performance Examples

The RFP provided that the agency would assess the relevancy of the past performance examples based on the extent to which the example showed that it involved the same magnitude of effort and complexities involved in performing the solicited requirement.<sup>10</sup> RFP at 72. As noted above, the contract awarded to IGH is

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<sup>10</sup> The past performance relevancy ratings provided that a very relevant rating would be assigned where the past performance example involved "essentially the same" magnitude and complexity; a relevant rating would be assigned where the example involved "much" of the magnitude and complexity; a somewhat relevant rating would be assigned where the example involved "some" of the magnitude and  
(continued...)



for a total value of approximately \$49 million, or more than \$16 million per year.<sup>11</sup> It contemplates performance on a nationwide basis in all 50 states, with a requirement for an estimated 170 full time equivalent personnel, exclusive of management personnel. RFP at 26-27.

The record shows that IGH included three past performance examples in its proposal. The first of these examples was for performance of a community service relocation readiness program and lending closet program at a single location. AR, exh. 8, IGH Technical Proposal, Vol. II, at 29-30. The period of performance for this contract was 2 years, and the total dollar value of the contract was \$58,176. The record shows that the agency assigned this past performance example a rating of relevant, stating without elaboration: “The past performance is within scope and the contract dollar value is not similar to the IGCE.” AR, exh. 14, PPEB Report, at 22.

IGH’s second past performance example was a contract to perform grant management support services for the Department of Housing and Urban Development. AR, exh. 8, IGH Technical Proposal, Vol. II, at 30-32. This contract was for a 3-year period of performance and had a total dollar value of \$481,308. IGH’s description of the contract states that the firm was a subcontractor assisting in the provision of grant management services. The agency assigned this contract a rating of relevant, stating without elaboration: “The scope of the past performance is marginally within the scope of the solicited work. The contract dollar value is significantly lower that the IGCE.” AR, exh. 14, PPEB Report, at 24.

IGH’s third past performance example was for a contract to provide program management support services for a pilot program run by the Veterans Health Administration. That contract was for a 1-year period of performance and was for a total dollar value of \$25,477. AR, exh. 8, IGH Technical Proposal, Vol. II, at 32-34. The record shows that the agency assigned this past performance example a rating of somewhat relevant, stating without elaboration: “The scope of the past performance is marginally within the scope of the solicited work. The contract dollar value is significantly lower that the IGCE.” AR, exh. 14, PPEB Report, at 24.

In contrast to these comparatively favorable ratings, the record shows that the agency assigned measurably less favorable relevancy ratings to the other offerors’

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complexity; and a not relevant rating would be assigned where the example “did not involve” the magnitude and complexity of the solicited requirement. RFP at 72.

<sup>11</sup> We note that the dollar value of a past performance example is, typically, used as a probative measurement of the magnitude of the example. Honeywell Tech. Solutions, Inc., supra at 22-23.

past performance examples, and in some instances, simply failed to consider some of the apparently relevant examples submitted.

For example, in evaluating the past performance of TASA, the record shows that the firm had a total of four past performance examples, two of which appear to be relevant to the solicited requirement because they were for performance of predecessor contracts in connection with two of the programs being supported under the solicited requirement, the Yellow Ribbon Reintegration Program (YRRP) and the Employment Initiative Program (EIP). See RFP at 7.

The record shows that the first of these contracts was for providing services in connection with the YRRP and EIP case management system; this contract was for an 11-month period of performance, and had a total dollar value of \$476,570. TASA AR, exh. 11, TASA Technical Proposal, Vol. II, at 33. The agency assigned this past performance example a somewhat relevant rating, finding as follows: “Although past performance involves some experience within the requirements, the contract dollar value does not support the magnitude of effort this solicitation requires.” AR, exh. 14, PPEB, at 29. This finding appears directly inconsistent with the agency’s assignment of relevant ratings to the first two of IGH’s past performance examples, which had values of, respectively, \$58,176 and \$481,308. There is no explanation in the record for this apparently disparate evaluation of the two firms’ past performance examples.

The second apparently relevant past performance example for TASA was a contract to develop a web platform for the YRRP and EIP programs. This contract was for a 2-year period of performance and had a total dollar value of approximately \$3.9 million. TASA AR, exh. 11, TASA Technical Proposal, Vol. II, at 32. The record shows that the agency simply did not consider this past performance example at all during its evaluation. There is no explanation in either the contemporaneous record or the agency’s submissions during the protest for the agency’s actions, notwithstanding that this contract appears relevant to the solicited requirement, and is of a much larger dollar value than any of the past performance examples proffered by IGH.

As a final example, the record shows that TEK Source included a past performance example for a contract valued at \$10.7 million. TEK Source AR, exh. 11, TEK Source Technical Proposal, Vol. II, at 28. In evaluating this example, the agency assigned it a rating of only somewhat relevant. Of significance, the agency observed, in assigning that rating, that the contract dollar value for this contract was “significantly lower than the IGCE [independent government cost estimate].” AR, exh. 14, PPEB Report, at 39.

In sum, the record reflects a lack of consistency in the agency’s assignment of relevancy ratings to the offerors’ past performance examples. IGH’s past performance examples were rated comparatively favorably, despite the fact that the

value of those contracts was only a small fraction of the value of the solicited requirement, and despite the fact that, for two of those examples, the agency found the scope of the contract to be only marginally related to the scope of the solicited requirement. While the agency may have had some reasonable basis for assigning the relevancy ratings it did assign to the IGH past performance examples, there is nothing in the record that memorializes the agency's conclusions.

In contrast, the record shows that, in evaluating the other offerors' past performance examples, the agency either applied what appear to be more stringent relevancy criteria (for example, finding apparently directly relevant contracts only somewhat relevant, or finding contracts with much larger dollar values only somewhat relevant), or simply failed to evaluate the past performance examples proffered. As with the evaluation of IGH's past performance examples, while there may be some reasonable basis for the agency's conclusions, there simply is no explanation in the record to support the agency's apparently inconsistent evaluation conclusions described above. We conclude that the agency did not have a reasonable basis for assigning relevancy ratings to the past performance examples.

#### Assignment of Performance Confidence Ratings

The record also shows that the agency did not assign performance confidence ratings in a manner that was consistent with the terms of the RFP and, moreover, the record in connection with the assignment of those ratings largely is undocumented. In this latter connection, an agency is required to document the basis for its evaluation findings adequately or it bears the risk that there will be inadequate supporting information for us to conclude that the agency's evaluation and source selection are reasonable. Al Raha Group for Technical Services, Inc.; Logistics Mgmt. Int'l, Inc., B-411015.2, B-411015.3, Apr. 22, 2015, 2015 CPD ¶ 134 at 6.

As an initial matter, we note that the agency's PPEB report does not include any information concerning the agency's evaluation of the quality of the offerors' past performance examples, or its assignment of performance confidence ratings. The PPEB Report is confined solely to the agency's assignment of relevancy ratings. AR, exh. 14, PPEB Report.

Instead, the agency's SSDD states that the agency's procurement support office assigned performance confidence ratings based on past performance questionnaires and past performance information retrieval system (PPIRS) reports. However, none of the past performance questionnaires or PPIRS reports that the agency claims to have reviewed are in the record, and the agency has offered no explanation for the absence of this documentation, despite the fact that challenges to the agency's past performance evaluation ratings have been a central feature of all of the protests. In addition, to the extent that the agency's procurement support office actually performed any analysis of the source materials the agency claims to

have reviewed, that analysis also is not in the record, and again, the agency has offered no explanation for the absence of this information.

Turning to the limited materials that are in the record,<sup>12</sup> we find that the agency's assignment of performance confidence ratings does not withstand logical scrutiny. With respect to IGH, the record shows that the agency assigned that firm's past performance a satisfactory confidence rating. In arriving at that rating, the limited narrative materials in the SSDD provide, in their entirety, as follows:

Questionnaires were sent to the three references identified by Interactive Government Holdings. Zero responses were received from the questionnaires, therefore resulting in a Neutral past performance rating. When combined, the relevancy, recency, and past performance rating give the Government Satisfactory Confidence that Interactive Government Holdings will be able to successfully perform the requirements of this contract with a low level of performance risk. There was no Contractor Performance Assessment Report (CPAR) available for Interactive Government Holdings in PPIRS.

AR, exh. 16, SSDD, at 23.

In view of the fact that the RFP provided for the assignment of a specific performance confidence rating (unknown) in situations where no relevant performance record is available for the offeror, we do not understand why the agency assigned IGH a satisfactory confidence rating under these circumstances, and there is no explanation for the agency's actions in the record.

The record here is inadequate for our Office to review, or to reach any conclusions about, the propriety of the agency's evaluation of the remaining offerors. As noted, all offerors uniformly were assigned a satisfactory confidence rating. In the absence of an adequate record, we are unable to critically assess whether or not there were qualitative differences among the remaining firms whose past performance records were reviewed. By extension, we are unable to decide whether or not the agency reasonably assigned all of the remaining proposals satisfactory confidence ratings.

In sum, we conclude that the record fails to include sufficient evidence to show the agency reasonably evaluated past performance. We therefore sustain this aspect of the protests.

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<sup>12</sup> The SSDD includes a table for each offeror that identifies the past performance references that were considered, a "questionnaire feedback" adjectival rating and an "overall confidence rating," along with a brief narrative statement that embodies the agency's apparent findings in connection with its review of questionnaires and PPIRS reports. AR, exh. 16, SSDD, at 22-27.

## Source Selection Decision

The protesters allege generally that, because of the evaluation errors discussed above, the agency's source selection decision is inherently flawed as well. In addition, the protesters maintain that the source selection decision improperly eliminated certain proposals as a class, or group, based solely on their adjectival ratings, without regard to the prices proposed or any consideration of the unique features of the competing proposals. Finally, the protesters maintain that the agency failed more generally to consider the actual comparative merits of the proposals--rather than simply their adjectival ratings--in arriving at the source selection decision.

We sustain this aspect of the protests as well. As a general matter, source selection officials enjoy broad discretion in making tradeoffs between the comparative merits of competing proposals in a best value setting; such tradeoffs are governed only by the test of rationality and consistency with the solicitation's evaluation criteria. PricewaterhouseCoopers LLP, B-409537, B-409537.2, June 4, 2014, 2014 CPD ¶ 255 at 12. Nonetheless, where, as here, an agency makes award to a higher-priced, higher-rated offeror in a best value setting, that award decision must be supported by a rational explanation of why the higher-rated proposal is, in fact, superior, and explain why its technical superiority warrants paying a cost premium. ACCESS Sys., Inc., B-400623.3, Mar. 4, 2009, 2009 CPD ¶ 56 at 7. Agencies may not base their selection decisions on adjectival ratings alone, since such ratings serve only as guides to intelligent decision making; source selection officials are required to consider the underlying bases for ratings, including the advantages and disadvantages associated with the specific content of competing proposals. CPS Prof'l Servs., LLC, B-409811, B-409811.2, Aug. 13, 2014, 2014 CPD ¶ 260 at 5.

We conclude that the agency's source selection here fails to meet these requirements. As an initial matter, and as discussed at length above, the agency's underlying evaluation of the offerors' technical proposals and past performance examples was materially flawed, such that any reliance the agency may have placed on the results of its evaluation was not reasonable.

In addition, the record shows that the proposals essentially were considered in groups based solely on the adjectival ratings assigned, and that no meaningful consideration was given to the comparative strengths and weaknesses of the individual proposals, or to the price advantages enjoyed by one offeror or another. For example, the record shows that the agency summarily rejected from further consideration all of the proposals except one that had been assigned an acceptable technical rating, without any consideration of the comparative strengths and weaknesses assigned to the proposals, or their relative proposed prices. In this

connection, the SSDD includes the following summary rejection of the acceptably rated proposals:

[Offeror A], Tek Source, TENICA, and [Offeror B] (rated Technically Acceptable)

- The offers above are rated technically Acceptable, and all received a Performance Confidence rating of "Satisfactory Confidence."
- Since the offers from Tek Source, TENICA, and [Offeror B] are higher priced than the lowest priced Acceptable offer from [Offeror A], no tradeoffs exist in technical or performance confidence that could justify paying a higher price over the offer from [Offeror A].

AR, exh. 15, SSDD, at 28-29. The record thus shows that the agency treated the proposals rated acceptable as a group, without meaningfully considering the comparative strengths and weaknesses assigned to those proposals, and also without considering the relative prices offered by those proposals, even though all of the acceptably rated proposals offered lower prices compared to the IGH proposal.<sup>13</sup>

In a similar vein, the record shows that the agency eliminated all of the marginally rated proposals as a group, without also considering the prices proposed or the comparative strengths and weaknesses of those proposals. In this connection, the SSDD provides as follows:

METIS Solutions, Dynamic Systems Technology, TASA IT, BEI [Brandan], and [Offeror X] (rated Technically Marginal)

- The Government intends to make award without discussions. The five Offerors who received a Technical rating of Marginal contained weaknesses and significant weaknesses that would require discussions and major revisions to their proposals, therefore they are no longer considered for award.
- The offers above are rated technically Marginal, and all received a Performance Confidence rating of "Satisfactory Confidence."

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<sup>13</sup> This is of particular concern regarding the proposal of TEK Source, since, as discussed above, the record shows that the agency's TEB assigned that firm a comparable number of strengths and weaknesses, and also the same adjectival rating as the IGH proposal, and there is no explanation in the record concerning the SSEB's changes to the two firms' ratings. The TEK Source proposal offered a price advantage of approximately 17 percent compared to the IGH proposal.

- The technical[ly] inferior Marginal offers present such a performance risk to the Government that they are no longer eligible for contract award.

AR, exh. 15, SSDD, at 28. While the RFP did allow the agency to summarily eliminate from award consideration a proposal that had been assigned an unacceptable rating, RFP at 72, no such provision existed with respect to the proposals assigned a marginal rating.<sup>14</sup> In addition, there is nothing in the SSDD to show that the agency gave meaningful consideration to the price advantage that may have been enjoyed by one or another of the marginally rated proposals, all of which were lower in price than the awardee's proposal. In this connection, for example, the record shows that one of the marginally rated proposals--the proposal submitted by Metis--was the lowest priced proposal, and offered a price advantage of approximately 26 percent compared to the price offered by IGH.

Finally, the record shows that, in selecting the IGH proposal over the proposal submitted by Offeror A (the lowest-priced technically acceptable proposal), the agency applied an unstated evaluation factor and gave no meaningful consideration to the reasonableness of the price offered by IGH. In this connection, the record shows that the agency largely discounted the price advantage enjoyed by Offeror A, finding as follows:

Although, [Offeror A's] proposed price is 25.82% lower than IGH's price, the SSEB Chair reviewed [Offeror A's] proposed employee hourly rates and there were concerns that the rates were significantly lower than current market rates for similar positions. This would result in current incumbent employees receiving a drastic reduction in pay and would significantly increase risk of unsuccessful performance under the new contract.

AR, exh. 15, SSDD, at 29. First, although the SSDD claims that the chairman of the SSEB made the hourly rate comparison described above, the record includes no documentation to support the claimed analysis. In the absence of such documentation, our Office is left to speculate on the propriety of the claimed analysis.

More importantly, however, this amounted to the application of an unstated evaluation factor in the agency's source selection decision. The RFP provided only for an evaluation of prices for reasonableness. The question of price

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<sup>14</sup> Cf. Contracting Consulting, Engineering, LLC, B-405732.4, et al., Feb. 12, 2012, 2012 CPD ¶ 4 at 4 (agency properly eliminated marginally rated proposal from further consideration where solicitation defined a marginal proposal as unacceptable).

reasonableness involves consideration of whether or not a proposed price is too high; the question of whether or not a proposed price is too low involves consideration of price realism, not price reasonableness. Per Aarsleff, et al., B-410782, et al., Feb. 18, 2015, 2015 CPD ¶ 86 at 17-18. While an agency may evaluate proposals for price realism in a fixed-price contract setting for the limited purpose of assessing whether an offeror's low price reflects a lack of technical understanding or risk, Federal Acquisition Regulation (FAR) § 15.404-1(d)(3), offerors must be advised that the agency will conduct such an analysis. Per Aarsleff A/S, et al., supra.

Here, the RFP did not contemplate the performance of a price realism evaluation. Thus, any consideration by the agency of Offeror A's allegedly unrealistically low price was improper. Moreover, even if the agency considered Offeror A's price so low as to preclude an award to the firm, that would be tantamount to a determination of non-responsibility, since consideration of an offeror's low price in the absence of a price realism evaluation factor in the solicitation generally concerns a matter of responsibility. Per Aarsleff A/S, et al., supra. Since this solicitation was set aside for exclusive small business participation, any such non-responsibility determination would have to have been referred to the Small Business Administration under that agency's Certificate of Competency program. See FAR part 19.6.

In addition, we point out that the agency never made a meaningful determination regarding the reasonableness of the price proposed by IGH. The record shows that the price offered by IGH was the highest among the offerors; IGH's price was approximately 10 percent higher than the next-highest price, and also was approximately 8 percent higher than the agency's independent government cost estimate (IGCE). AR, exh. 15, SSDD, at 27-28. The record does not include any critical price analysis performed by the agency. The only information in the record pertaining to price is a brief, two-sentence conclusion in the SSDD that provides as follows:

Price Analysis. Price proposals for Offerors rated technically marginal and higher were evaluated to determine reasonableness and completeness of prices offered. This evaluation was performed utilizing comparisons of the Offerors proposed prices to (1) competitors pricing and (2) the Independent Government Cost Estimate (IGCE). Based upon adequate competition, prices are determined to be fair and reasonable.

AR, exh. 15, SSDD at 27. Simply stated, this generalized representation about the reasonableness of the prices received is no substitute for a careful analysis of the reasonableness of the awardee's proposed price, especially in view of the fact that IGH's proposed price was substantially higher than the other prices received, as



well as the IGCE. In light of these considerations, we sustain this aspect of the protests.

#### Bias

In a supplemental protest filing, Metis alleged bias on the part of the agency. The basis for Metis's allegation is a representation that was included in one of the agency's legal memoranda submitted in connection with that firm's supplemental protest.

Where a protester alleges bias on the part of the contracting activity, it must provide not only credible evidence clearly demonstrating bias against the protester and in favor of the awardee, but also must show that the alleged bias translated into action that unfairly affected the protester's competitive position. Graybar, B-411229.2, June 22, 2015, 2015 CPD ¶ 188 at 5. While we agree with the protester that the language used by the agency's lawyer was unnecessarily inflammatory and inappropriate, it does not appear in the contemporaneous record of the agency's evaluation and source selection process. Accordingly, there is no basis for our Office to conclude that the bias alleged translated into action that unfairly affected Metis's competitive position.

#### RECOMMENDATION

In view of the foregoing considerations, we sustain the protests. We recommend that the agency reevaluate proposals and make a new source selection decision in a manner consistent with our discussion above. Should the agency conclude that a proposal other than the one submitted by IGH represents the best value to the government, we further recommend that the agency terminate the contract awarded to IGH for the convenience of the government, and make award to the newly-selected offeror, if otherwise proper. Finally, we recommend that the agency reimburse the protesters the costs associated with filing and pursuing their respective protests, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protesters should submit their respective certified claims for costs, detailing the time expended and cost incurred, directly to the contracting agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f)(1).

The protests are sustained.

Susan A. Poling  
General Counsel