Decision

Matter of: Diversified Technology & Services of Virginia, Inc.

File: B-412090.2; B-412090.3

Date: December 16, 2015

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Louis A. Chiarella, Esq., and Nora K. Adkins, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency’s evaluation of offerors’ experience is denied where the evaluation was reasonable and consistent with the stated evaluation criteria, and the evaluation was not unequal.

2. Protest challenging the agency’s evaluation of awardee’s management approach is denied where the evaluation was reasonable and consistent with the stated evaluation criteria, and the evaluation was not unequal.

3. Agency’s cost/technical tradeoff is unobjectionable where the decision was consistent with the solicitation, supported by underlying evaluation findings, and adequately documented.

DECISION

Diversified Technology & Services of Virginia, Inc. (DTSV), of Newport News, Virginia, protests the award of a contract to FCi Federal, Inc., of Ashburn, Virginia, under request for proposals (RFP) No. HSSCCG-15-R-00020, issued by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), for records operation support services at the USCIS National Benefits Center (NBC), located in Lee’s Summit, Missouri, and Overland Park, Kansas.
DTSV argues that the agency’s evaluation of proposals and the resulting award decision were improper.

We deny the protest.

BACKGROUND

The USCIS administers the country’s immigration and naturalization processes. Performance Work Statement (PWS) § 3.0. The mission of the NBC is to create and support a centralized and standardized process for the processing of applications and petitions for adjudication of immigration benefits. Id. Applications are submitted electronically to the NBC, and the data is uploaded for set up, processing, storage, adjudication by government personnel, and maintenance of files. Id.

The RFP, issued on February 27, 2015,1 contemplated the award of a hybrid fixed-price, time-and-materials, and cost-reimbursable contract for a 6-month base period (including a 2-month transition period), with one 6-month option and four 1-year options. In general terms, the PWS required the contractor to provide all personnel necessary to perform the described records operations functions, including correspondence management, file operations and maintenance, Freedom of Information Act (FOIA) scanning, program management, transition, and turn-key operations. Id. § 4.1. The RFP established that contract award would be made on a best-value basis, based on six evaluation factors set forth generally in descending order of importance: experience; management approach; staffing and retention; past performance; small business participation; and price.2 RFP § V-1. The nonprice factors, when combined, were significantly more important than price. Id.

Six offerors, including FCi and DTSV, submitted proposals by the April 3 closing date. An agency technical evaluation committee (TEC) assessed proposals under the first three evaluation factors using an adjectival rating scheme set forth in the RFP as follows: outstanding, good, acceptable, or unacceptable. A separate USCIS business evaluation committee (BEC) evaluated proposals as to past performance (low risk, medium risk, high risk, or neutral) and small business participation (acceptable or unacceptable). Offerors’ prices were not to be rated, but evaluated for reasonableness and understanding of the PWS requirements. RFP § V-4.

1 The RFP was subsequently amended six times. Unless stated otherwise, all references are to the final version of the solicitation.

2 The first three factors were of equal importance. Id.
After the evaluation of initial proposals, the contracting officer established a competitive range consisting of all six offerors. The agency conducted discussions, followed by the submission of final proposal revisions (FPR) by May 26. The agency TEC and BEC then evaluated offerors’ FPRs, with the final evaluation ratings and prices of the FCi and DTSV proposals as follows:

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<th>DTSV</th>
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<td>Experience</td>
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<td>Management Approach</td>
<td>Outstanding</td>
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<td>Staffing and Retention</td>
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<td>Small Business Participation</td>
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<td>Price</td>
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The agency evaluators also made narrative findings (e.g., strengths, weaknesses) in support of the adjectival ratings assigned to each offeror’s proposal. For example, under the experience factor, the TEC identified five strengths and no weaknesses in FCi’s proposal, and two strengths and no weaknesses in DTSV’s proposal. AR, Tab 23, Final TEC Report for DTSV, at 11-13; Tab 29, Final TEC Report for FCi, at 18-22.

The agency source selection authority (SSA) subsequently reviewed the findings and ratings of the agency evaluators. The SSA found that FCi’s proposal was superior to DTSV’s under the experience factor, as well as under the management approach factor notwithstanding the common rating assigned. AR, Tab 26, Source Selection Decision, 10-11. The SSA also concluded that FCi’s technical advantages would bring significant benefits to the agency and outweighed DTSV’s $13.5 million price advantage. Id. at 11. The USCIS then made contract award to FCi on September 4. Id. at 10-12.

On September 14, after the agency provided DTSV with notice of contract award and a debriefing, DTSV filed its protest with our Office.

DISCUSSION

DTSV’s protest raises numerous issues regarding the agency’s evaluation and resulting award decision. The protester alleges that USCIS’s evaluation of its experience was improper. DTSV also contends the agency’s evaluation of FCi’s proposal under the experience and management approach factors was
unreasonable and unequal. Lastly, DTSV asserts that the agency's best value tradeoff decision was improper. We have considered all the issues and arguments raised by DTSV and, although we do not address them all, find they provide no basis on which to sustain the protest.

Experience Evaluation of DTSV

DTSV challenges the agency's evaluation of the offerors' experience. Specifically, the protester alleges that the solicitation contained a latent ambiguity, such that the agency's evaluation of DTSV's experience was in error. We disagree.

The experience evaluation factor consisted of three items: experience with large scale records management operations; experience with transition and management of hundreds of employees at multiple locations; and program manager experience with large scale records management operations. RFP § V-2. Relevant to the protest here, the solicitation stated as follows:

**Factor 1 Experience:** This factor will be evaluated as outstanding, good, acceptable, or unacceptable. The Government will evaluate your experience performing similar efforts as the work in the PWS as a prime or subcontractor, which will include the following items:

a. The Government will evaluate your experience with large scale records management operations. Experience as a prime contractor will result in a higher rating. Numerous examples; especially examples directly related to USCIS will result in a higher rating. This evaluation will consider the operation, the customer, the services encompassed, and how all of these are similar to the requirement.

Id.

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3 DTSV also alleged that the agency’s evaluation of FCi’s management approach was improper because: (1) FCi’s proposed innovations were prohibited by the solicitation; (2) FCi’s use of automated tools and software, including [DELETED], were not permitted by the RFP and amounted to a latent ambiguity; and (3) the agency would be required to purchase FCi’s software in the future in order to sustain any reduced costs, which was not taken into account in the best value determination. Protest, Oct. 23, 2015, at 12-18. We consider these arguments abandoned, since USCIS provided a detailed response to the protester’s assertions in its report (AR, Oct. 28, 2015, at 6-8), and DTSV did not reply to the agency’s response in its subsequent comments (DTSV Comments, Nov. 9, 2015, at 6-11). See Citrus College; KEI Pearson, Inc., B-293543 et al., Apr. 9, 2004, 2004 CPD ¶ 104 at 8 n.4.
DTSV’s proposal set forth its experience performing high-volume records management operations. AR, Tab 13, DTSV Initial Proposal, Vol. I, Technical Proposal, at 3. DTSV’s proposal also included six references—three for itself and one each for its major subcontractors: Summit Technical Solutions (STS); LongView International Technology Solutions, Inc.; and Reed Technology and Information Services (Reed Tech). Id. at 4-5. DTSV’s own references were with the Patent and Trademark Office and the Department of Justice, STS’s reference was with USCIS (the records operations support services (ROSS) contract), Longview’s reference was with USCIS (the service center operations support services (SCOSS) contract), and Reed Tech’s reference was with the Patent and Trademark Office. Id. at 5-15.

The TEC evaluated DTSV’s six references and found that the offeror met the requirement for large scale, records management operations experience in all PWS task areas. AR, Tab 23, TEC Final Report of DTSV, at 11. The agency evaluators did not assign a strength to the offeror’s experience, however, because although DTSV’s proposed subcontractors had experience with USCIS records management operations, DTSV itself did not. Contracting Officer’s Statement, Oct. 13, 2015, at 5. The SSA ultimately determined that DTSV’s lack of direct experience with USCIS records management operations made its experience inferior to FCi’s experience. AR, Tab 26, Source Selection Decision, at 10.

DTSV alleges that the solicitation contained a latent ambiguity which resulted in an improper evaluation. Specifically, DTSV argues that the phrase “your experience” can be interpreted as referring to the offeror’s team as a whole, i.e., both the prime contractor offeror and its subcontractors. Because DTSV alleges that its interpretation is a reasonable one, the protester argues the agency was required to give the experience of DTSV’s proposed subcontractors the same weight as DTSV’s own experience. The agency does not dispute that “your experience” refers to both the offeror and its subcontractors; in fact, the agency states that it considered the experience of all DTSV team members in its evaluation. Rather, the agency maintains that it was not required to consider the experience of proposed subcontractors as equal to the experience of the offeror itself.

Our Office reviews an agency’s evaluation to ensure that it was reasonable and consistent with the solicitation’s stated evaluation criteria and applicable statutes.

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4 The DTSV and FCi FPRs consisted of only “change pages” to their initial proposals. Thus, absent the existence of a proposal revision in the particular area, citations are to the offerors’ initial proposals.

5 DTSV’s proposal indicated that LongView would perform 20 percent of the work, and that STS and Reed Tech would each perform 10 percent of the work. AR, Tab 14, DTSV Initial Proposal, Vol. II, Business Proposal, at 2-3.

Solicitations must contain sufficient information to enable offerors to compete intelligently and on a relatively equal basis. Coastal Int’l Sec., Inc., B-411756, B-411756.2, Oct. 19, 2015, 2015 CPD ¶ 340 at 4; see Government & Military Certification Sys. Inc., B-411261, June 26, 2015, 2015 CPD ¶ 192 at 5. In this regard, an ambiguity exists where two or more reasonable interpretations of the solicitation are possible. Colt Def., LLC, B-406696, July 24, 2012, 2012 CPD ¶ 302 at 8. An obvious, gross, or glaring error in the solicitation is a patent ambiguity; a latent ambiguity is more subtle. Id. Where there is a latent ambiguity, both parties’ interpretation of the provision may be reasonable, and the appropriate course of action is to clarify the requirement and afford offerors an opportunity to submit proposals based on the clarified requirement. Id. Where a protester and agency disagree over the meaning of solicitation language, we will resolve the matter by reading the solicitation as a whole and in a manner that reasonably gives effect to all its provisions. H P Enter. Servs., LLC, B-409169.3, B-409169.4, June 16, 2014, 2014 CPD ¶ 179 at 7.

Here, we find unobjectionable the agency’s assessment of DTSV’s experience. First, despite the protester’s assertion of a latent ambiguity regarding the term “your experience,” the parties in fact agree as to its interpretation—that it refers to both the offeror and its proposed subcontractors. Further, the record reflects that USCIS’s evaluation of DTSV took into account the past experience of the protester itself as well as its team members.

We also find no merit in the protester’s related assertion that because the evaluation of the experience factor included the prior efforts of its subcontractors, the agency was thereby required to give their experience equal weight to the prime contractor’s experience. In this respect, while the RFP did not prohibit offerors from submitting contracts performed by team members, it also did not preclude the agency from affording less weight to such projects.6 Ultimately, the significance of, and the weight to be assigned to, the prime contractor’s offeror’s experience--or

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6 In fact, DTSV’s argument would essentially require the agency to weigh equally the prior experience of a prime offeror who was to perform 100 percent of the work, with that of a subcontractor that was to perform 10 percent (or less) of the work.
Experience Evaluation of FCi

DTSV protests that the agency's evaluation of FCi's experience was also improper. Specifically, the protestor alleges the agency improperly relied on a prior contract that had been performed by FCi for about a month, and that the agency's evaluation of FCi was unequal. As detailed below, we find the agency's evaluation to be proper.

FCi's proposal set forth its experience performing large scale records management operations, and included four references for the offeror: (1) its SCOSS contract with USCIS; (2) its field office support services (FOSS) contract with USCIS; (3) its visa support services contract with the Department of State; and (4) its declassification/FOIA/name check contract with the Federal Bureau of Investigations. AR, Tab 28, FCi Proposal, Vol. I, Technical Proposal, at 5-11. Relevant to the protest here, FCi's SCOSS contract, which began in April 2011, was awarded to a joint venture consisting of FCi and DTSV's proposed subcontractor LongView. The agency subsequently recompeted the SCOSS contract, which was awarded on May 18, 2015, to The Oryza Group, LLC, with FCi as a significant subcontractor. The TEC

7 Moreover, the agency's decision to take the degree of participation into account--just as it took prior USCIS and prime contractor efforts into account--was reasonably encompassed by the experience evaluation factor, because it was also predictive of successful performance on the awarded contract. See Affordable Eng'g Servs., Inc., B-407180.4 et al., Aug. 21, 2015, 2015 CPD ¶ 334 at 12; PMC Solutions, Inc., B-310732, Jan. 22, 2008, 2008 CPD ¶ 20 at 3.

8 FCi's proposal stated that it was "the lead partner in the Long[V]iew-Fedconsulting joint venture and the contract manager on the SCOSS program." AR, Tab 28, FCi Proposal, Vol. I, Technical Proposal, at 7. While DTSV contends that LongView was the "managing venturer", Protest, Oct. 23, 2015, at 12, it bases this assertion on information that was not included in the proposal submitted for evaluation.

9 The Oryza Group and FCi formed a partnership to secure and perform the contract, and transition to the new SCOSS contract began in June 2015. Protest, Oct. 23, 2015, exh. C, FCi Press Release, June 22, 2015, at 1. The LongView-FCi (continued...)
identified FCi’s experience on multiple USCIS contracts as a strength, AR, Tab 29, Final TEC Report for FCi, at 18-20, and the SSA found that FCi’s experience on multiple USCIS contracts “as a prime contractor, subcontractor, and partner in a joint venture” provided it with a greater depth of experience than that possessed by DTSV. AR, Tab 26, Source Selection Decision, at 10.

DTSV argues that it was improper for the agency to take into account FCi’s performance as a subcontractor on the recompeted SCOSS contract because of its short duration. The protester also alleges that FCi’s experience as the SCOSS subcontractor was the only difference between the offerors’ experience performing USCIS contracts. We disagree.

We have previously found it reasonable for an agency to consider the length or duration of an offeror’s prior contracts when determining the relevance of such efforts. See Nova Techs., B-403461.3, B-403461.4, Feb. 28, 2011, 2011 CPD ¶ 51 at 4 (finding that an agency reasonably considered contract duration as part of a determination of the similarity of an offeror’s past performance); SWR, Inc.—Protest & Costs, B-294266.2 et al., Apr. 22, 2005, 2005 CPD ¶ 94 at 6 (finding that the agency reasonably gave less weight to a prior contract that had been performed for less than 1 year). In evaluating an offeror’s likelihood of successful performance, a prior contract effort that is of brief or limited duration is simply not as probative of an offeror’s record as a contract for a lengthier period of time. See SWR, Inc.—Protest & Costs, supra. Absent a solicitation provision regarding same, however, there is no minimum duration that must exist before an agency takes an offeror’s prior contracts into account; any challenge to the agency’s evaluation instead concerns the weight assigned. See Nova Techs., supra; Chenega Tech. Prods., LLC, B-295451.5, June 22, 2005, 2005 CPD ¶ 123 at 6.

We find nothing improper about the agency’s decision to take into account FCi’s work as the current SCOSS subcontractor when evaluating the awardee’s experience, as it was not prohibited by the RFP. In addition, FCi’s work on the SCOSS contract is not the awardee’s only relevant experience. FCi’s work as the current SCOSS subcontractor was essentially in addition to the work it had been performing on the predecessor SCOSS contract since April 2011.10 In fact, the shorter FCi’s duration as the current SCOSS subcontractor, the longer FCi’s performance on the predecessor SCOSS contract, which continued until the

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(...continued)

joint venture continued performance of the incumbent SCOSS contract until transition to the new Oryza Group/FCi contract occurred.

10 The SSA’s use of the term “subcontractor” here merely recognized that FCi’s performance of the SCOSS contract had continued uninterrupted, in one capacity or another, for an extended period of time.
transition to the new contract occurred. Moreover, as set forth above, FCi’s experience on USCIS work efforts was not limited to the SCOSS contract, but also included the FOSS contract, both of which the agency considered as part of its evaluation. Similarly, we find no merit in DTSV’s assertion that FCi’s experience as the SCOSS subcontractor was the only difference between the offerors’ experience performing USCIS contracts: FCi itself had experience performing two high-volume records management operations contracts for USCIS, while DTSV’s experience was limited to that of two proposed subcontractors who were to perform only 10 percent and 20 percent of the contract effort.

DTSV also alleges that the agency’s evaluation of offerors’ experience was unequal. The protester contends that, with regard to prior contracts performed by a joint venture, the agency did not give DTSV the same “full credit” for such contracts, as it did for FCi. DTSV also points to the fact that it was the joint venture between FCi and DTSV subcontractor LongView (for the prior SCOSS contract) that the agency evaluated unequally.

We find no merit in the protester’s assertion. The record reflects that the agency was aware of and considered DTSV’s subcontractor’s (LongView’s) performance on the prior SCOSS contract as a joint venture member. AR, Tab 26, Source Selection Decision, at 9; Contracting Officer’s Statement, Oct. 13, 2015, at 4. Similarly, the record reflects that the agency was aware of and considered FCi’s performance on the prior SCOSS contract as a joint venture member.11 AR, Tab 26, Source Selection Decision, at 10-11; Contracting Officer’s Statement, Oct. 13, 2015, at 4. The SSA reasonably recognized, however, that FCi’s joint venture experience related to itself, while DTSV’s claimed joint venture experience related to one of its subcontractors. The protester’s bare assertion that “[t]here is no indication in the record that USCIS gave FCi less than full credit for its joint venture experience,” Protest, Oct. 23, 2015, at 12, is insufficient to establish that the agency treated offerors unequally regarding their joint venture experience. 4 C.F.R. § 21.5(f).

Management Approach Evaluation of FCi

DTSV also protests the agency’s evaluation of FCi’s proposal under the management approach factor. Specifically, the protester alleges that USCIS erred by crediting FCi’s management approach over DTSV’s management approach even though the offerors proposed the same approach.

With regard to DTSV’s management approach, the TEC identified four strengths and rated DTSV’s approach as outstanding. AR, Tab 23, Final TEC Report for DTSV, at 13-16. With regard to FCi’s management approach, the TEC also

11 As stated above, FCi’s proposal indicated that it was the lead partner in the parties’ joint venture agreement as well as the SCOSS contract manager.
identified four strengths and rated FCi’s approach as outstanding.\footnote{The management approach factor consisted of four items (e.g., managing variations in operations such as frequent process changes), and the evaluators found that both the DTSV and FCi proposals exceeded requirements in all areas.} AR, Tab, 29 Final TEC Report for FCi, at 23-26. Relevant to the protest here, one part of one FCi strength was the offeror’s organizational approach, described in detail with measurable results, of managing its workforce by function (e.g., [DELETED]) rather than by form. \textit{Id.} at 24; see also Tab 28, FCi Proposal, Vol. I, Technical Proposal, at 15-18.

The SSA, as part of his subsequent cost/technical tradeoff determination, found that certain innovative strengths in FCi’s management approach would provide significant benefits to USCIS, and made it superior to that proposed by DTSV. In this regard, the SSA determined that FCi’s proposed management by function would provide for rapid, consistent change deployment, increased flexibility to scale up for surges, and easier integration of new form types into NBC records operations.\footnote{Here the SSA found that as more immigration and naturalization forms were filed electronically, thereby reducing the amount of manual data entry work with pre-populated data fields, the emphasis on function rather than form type should help decrease costs to USCIS by: reducing some of the current specialization in particular form types; fostering more efficient cross-utilization of personnel; and reducing some of the disruptive impacts of surges. \textit{Id.} Also, the SSA found that FCi’s proposal had demonstrated measurable results utilizing this management-by-function approach. \textit{Id.}} AR, Tab 26, Source Selection Decision, at 11. The SSA also identified--as another FCi advantage--the offeror’s proposed use of a [DELETED]. \textit{Id.} The SSA also found the fact that FCi linked its quality control plan to employee retention through [DELETED] to be another management approach discriminator. \textit{Id.}

DTSV alleges that its management approach was akin to FCi’s, insofar as the protester also proposed to manage by function rather than form.\footnote{DTSV initially argued that FCi’s innovative method to manage by function, rather than by form, fell outside the scope of the solicitation, i.e., amounted to an unstated evaluation criterion. Protest, Oct. 23, 2015, at 13-14. The protester now contends that, like FCi, it also proposed to manage by function. DTSV Comments, Nov. 9, 2015, at 8.} DTSV also alleges that its proposal likewise addressed the advantages identified with managing by function, that is, the cross-utilization of personnel and surges. The agency argues that notwithstanding the equivalent ratings, the SSA reasonably found FCi’s proposal provided more management approach benefits than did DTSV’s proposal (including organizing by function), which the SSA documented in
his source selection decision. As detailed below, we find the agency’s evaluation of FCi’s management approach to be reasonable, consistent with the solicitation, and not unequal.

As a preliminary matter, DTSV’s argument that its management approach was equivalent to FCi’s is premised on the inaccurate assertion that the only identified difference between the two was FCi’s management by function. The protester essentially ignores the fact that the SSA also found other innovative management approaches in FCi’s proposal—the use of a [DELETED] tool, and FCi’s linking of quality control methods to employee retention through [DELETED]—which DTSV does not challenge, and which resulted in the agency’s conclusion that FCi’s approach was superior to DTSV’s. Thus, the record reflects that the agency properly credited FCi’s management approach as providing benefits above and beyond those included in DTSV’s proposal aside from managing by function.

Moreover, with regard to managing by function, the record reflects that the agency reasonably found that the FCi and DTSV proposals were not, as the protester suggests, the same. FCi’s proposal clearly set forth how it would organize personnel by function, and provided an example of how it had successfully done so previously. In contrast, the record reflects that DTSV’s proposal contained only vague, disjointed references to its organizational approach. As the protester itself points out, “[a]lthough DTSV’s proposal does not explicitly state it is not managing by form, it does not contain any language that indicates it intends to manage by form.” DSTV Comments, Nov. 9, 2015, at 8. Quite simply, DTSV’s proposal, which failed to clearly state that it would organize its workforce by function, is less detailed than FCi’s proposal, and which the agency reasonably found to offer a beneficial advantage over DTSV’s proposal. Likewise, the mere fact that DTSV addressed cross-utilization of personnel and work surges in other aspects of its management approach proposal, and which the agency recognized in its evaluation, does not support the protester’s assertion of unequal treatment.

Best Value Tradeoff Determination

Lastly, DTSV alleges that the agency’s price/technical tradeoff analysis was unreasonable. The protester contends that as the agency’s underlying evaluation was materially flawed, the evaluation resulted in an unreasonable best value determination. DTSV also argues the agency’s decision to pay a $13.5 million price premium was irrational insofar as the protester allegedly offered an equivalent, if not superior, proposal to that of FCi.

Source selection officials in negotiated best-value procurements have broad discretion in making cost/technical tradeoffs, and the extent to which one may be sacrificed for the other is governed only by the tests of rationality and consistency with the solicitation’s stated evaluation criteria. InfoPro, Inc., B-408642.2, B-408642.3, Dec. 23, 2014, 2015 CPD ¶ 59 at 24. Source selection decisions must
be documented, and the documentation must include the rationale for any business judgments and cost/technical tradeoffs made, including the benefits associated with the additional costs. Federal Acquisition Regulation § 15.308; General Dynamics Info. Tech., Inc., B-406059.2, Mar. 30, 2012, 2012 CPD ¶ 138 at 4. However, there is no need for extensive documentation of every consideration factored into a tradeoff decision; rather, the documentation need only be sufficient to establish that the agency was aware of the relative merits and costs of the competing proposals and that the source selection was reasonably based. Wyle Labs., Inc., B-407784, Feb. 19, 2013, 2013 CPD ¶ 63 at 11.

DTSV’s argument here is essentially that it was prejudiced by the underlying evaluation of offerors’ proposals cited in its protest—“[i]f these [evaluation] errors were corrected, USCIS would lack any reasonable basis to select FCi’s proposal.” Protest, Oct. 23, 2015, at 19. As discussed above, we find no basis to question the propriety of the underlying evaluation. Further, the record reflects that the SSA reasonably considered FCi’s technical advantages and documented in textbook fashion why these advantages warranted the associated price premium. AR, Tab 26, Source Selection Decision, at 10-12. Thus, we find no basis on which to sustain the protest.

The protest is denied.

Susan A. Poling
General Counsel