



DOCUMENT FOR PUBLIC RELEASE

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

Decision

Matter of: Octo Consulting Group, Inc.

File: B-416097.3; B-416097.4

Date: September 24, 2018

Aron C. Beezley, Esq., Lisa A. Markman, Esq., Sarah S. Osborne, Esq., and Marcus Augustine, Esq., Bradley, Arant, Boult, Cummings, LLP, for the protester.
Deneen J. Melander, Esq., Lanora C. Pettit, Esq., Lukman Azeez, Esq., and Richard Sauber, Esq., Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP, for Northrop Grumman, the intervenor.
Richard L. Hatfield, Esq., Kelly Zeng, Esq., and Holly H. Styles, Esq., Department of the Treasury, for the agency.
Michael Willems, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that the agency performed an impermissible price realism evaluation is denied where the agency simply concluded that the protester's technical approach was marginal, and therefore could pose cost, schedule, and technical risks to the agency.
2. Protest that agency treated vendors disparately by scrutinizing the protester's staffing plan, while failing to conduct similarly rigorous analysis for the awardee, is denied where the awardee provided the information required by the solicitation, but the protester provided more detailed information than was required, and the agency reasonably reviewed the more detailed information.
3. Protest that agency did not give due consideration to protester's socioeconomic status in a best-value tradeoff decision is denied where the protester could not demonstrate prejudice.

DECISION

Octo Consulting Group, a small business of Reston, Virginia, protests the issuance of a blanket purchase agreement to Northrop Grumman, of West Falls Church, Virginia, under request for proposals (RFP) No. TIRNO-18-Q-00002 issued by the Department of the Treasury, Internal Revenue Service (IRS), against the General Services Administration's Federal Supply Schedule (FSS) 70 for information technology services

in support of the HRConnect human resource management system. The protester alleges that the agency erred in evaluating proposals, and in conducting the best-value tradeoff.

We deny the protest.

BACKGROUND

The RFP contemplated the issuance of a single blanket purchase agreement with a 1-year base period and four 1-year option periods, against which an initial task order would be issued on a fixed-price basis, and further task orders could be issued on either a fixed-price or a labor-hour basis. Agency Report (AR), Tab 4E1, RFP at 2. The RFP provided that award would be made on the basis of a best-value tradeoff between price and the following technical factors listed in descending order of importance:

(1) technical quality; (2) corporate experience and key personnel; and (3) socioeconomic status. Id. at 180-181. The RFP further noted that all technical factors combined were more important than price. Id. The RFP provided that the socioeconomic status evaluation factor would be rated either neutral or excellent, while the other two technical factors would be given one of the following adjectival ratings: (1) excellent; (2) good; (3) acceptable; (4) marginal; or (5) unacceptable. RFP at 182-185.

The RFP instructed vendors to prepare their price proposals on the basis of a pricing workbook, and to include fixed prices for a notional first task order included as an attachment to the RFP. AR, Tabs 4D4, Pricing Workbook and 4C5, Task Order 1. The RFP provided that price would be evaluated for fairness and reasonableness, and by checking proposed prices against the contractor's FSS rates. RFP at 185. The RFP did not provide for a price realism assessment. Additionally, the RFP required vendors to provide resumes for three specific key personnel, and generally demonstrate their ability and approach to meet the requirements of the performance work statement, including the provision of staffing models. RFP at 178 and 181-182. The RFP did not require specific identification of all proposed staff for the first task order until 30 days after the issuance of the first task order. Id. at 80-81.

The agency initially issued the RFP on November 7, 2017. AR, Tab 1, Memorandum of Law (MOL) at 1. In response, the IRS received proposals from six contractors, including Octo and Northrop, and ultimately made award to Northrop on February 18, 2018. Id. at 2. Octo filed its initial protest with our Office on March 5, and on March 23 the IRS advised our office that it intended to take corrective action. The agency represented that it would assess whether the solicitation reflected its requirements, and, if so, it would reevaluate proposals and make a new source selection decision. AR, Tab 3D, Request for Dismissal. Upon implementation of its corrective action, the agency concluded that the solicitation reflected its needs, and conducted a reevaluation resulting in the following ratings assessed to the Octo and Northrop proposals:

	Octo Consulting Group	Northrop Grumman
Technical Quality	Marginal	Good
Corporate Experience and Key Personnel	Good	Excellent
Socioeconomic Status	Excellent	Neutral
Price	\$52,998,498	\$60,933,727

AR, Tab 7B, Basis for Award Decision at 22

On the basis of this evaluation, the agency concluded that Northrop's proposal offered the best value to the agency, and sent an unsuccessful vendor notice to Octo on June 6. MOL at 3. This protest followed.

DISCUSSION

The protester alleges that the agency erred in several respects in its evaluation of both its own proposal and the awardee's proposal, and that the agency's best-value tradeoff decision was also flawed. Specifically, the protester alleges that the agency: (1) erred in assigning its proposal several weaknesses; (2) double-counted one of its weaknesses; (3) downgraded its proposal based on an impermissible price realism evaluation; (4) erred in evaluating the awardee's proposal; (5) engaged in disparate treatment during the evaluation; and (6) conducted a flawed and inadequately documented best-value tradeoff.¹ We deal with each argument in turn.²

Alleged Evaluation Errors in the Protester's Proposal and Double-Counting

The protester argues that the agency erred in assigning its proposal two significant weaknesses under the technical quality evaluation factor, and also erred in assigning two weaknesses under the corporate experience and key personnel evaluation factor. Specifically, the protester contends that the agency erred in concluding that it proposed only a single full-time developer, and that, even if a weakness was correctly assessed for this issue, the agency double-counted it by assigning the firm both a significant weakness under the technical quality evaluation factor, and a weakness under the corporate experience and key personnel evaluation factor. First Supp. Protest at 15-18

¹ The protester, across its initial protest and three supplemental protests, raised twelve distinct protest grounds with numerous sub-grounds. About half of these have been withdrawn or abandoned over the course of the protest, and the grounds listed above are the grounds that remain to be decided. See, e.g., Protester's Comments and Second Supp. Protest at 7.

² While we do not discuss all of the protester's arguments in this decision, we have considered all of them and conclude that none form a basis to sustain the protest.

and 27-29. The protester also contends that the agency irrationally assigned a significant weakness on the basis of a proposed future reduction in staff which would be offset by efficiencies in its technical approach. Octo additionally maintains that the IRS applied an unstated evaluation criterion in assigning another weakness because the protester's program manager lacked specific human resources line of business (HRLOB) experience. Id. at 18-22 and 25-27.

In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate the proposals; rather, we will examine the record to determine whether the agency's evaluation conclusions were reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. OPTIMUS Corp., B-400777, Jan. 26, 2009, 2009 CPD ¶ 33 at 4. A protestor's disagreement with the agency's judgment, by itself, is not sufficient to establish that an agency acted unreasonably. Hughes Network Sys., LLC, B-409666.5, B-409666.6, Jan. 15, 2015, 2015 CPD ¶ 42 at 6. Additionally, an agency may properly consider an element of a proposal under more than one evaluation criterion where the element is relevant and reasonably related to each criterion under which it is considered. See UNICCO Gov't Servs, Inc., B-409111 et al., Jan. 23, 2014, 2014 CPD ¶ 55 at 11 n.6 (citing Teledyne Brown Eng'g, B-258078, B-258078.2, Dec. 6, 1994, 94-2 CPD ¶ 223 at 4-5).

Here, the record reflects that the agency assigned Octo's proposal a significant weakness under the technical quality evaluation factor, based on its proposed software development staffing, and a separate weakness under the corporate experience and key personnel subfactor. AR, Tab 2, Contracting Officer's Statement (COS) at 16-20. Both weaknesses concerned, in part, Octo's cross-utilization of its development lead for direct software development. Id.

With respect to the significant weakness under the technical quality evaluation factor, the agency concluded that the protester had effectively proposed only a single software developer. AR, Tab 2, COS at 16-20. Although the protester's proposal includes two personnel that it identifies as developers, one of them, the development lead, is also identified as one of the protester's key personnel. First Supp. Protest at 16-17. The agency found that the development lead's resume, while demonstrating significant experience in leading software development teams, showed limited or no experience in direct software development.³ AR, Tab 5A, Octo Technical Proposal at 40-41; AR,

³ The individual's resume includes only a single entry that could reasonably suggest direct development experience, and that entry is ambiguous. Specifically, the individual's resume notes that, as a program manager supervising 35 developers, she "implemented" several core software modules and "deployed" several additional software modules. AR, Tab 5A, Octo Technical Proposal at 40-41. The context makes it unclear as to whether that language signified personal development and deployment of 14 separate software modules, or was instead referring to the individual's leadership role as program manager supervising the implementation and deployment of those software modules. Id.

Tab 2, COS at 16-20. The agency expressed a concern about Octo's approach because the HRConnect system had historically been supported by at least four full-time developers, while Octo proposed only two developers, only one of whom had significant direct development experience.⁴ COS at 16-17. While the RFP did not require vendors to propose any specific number of developers, the evaluation record supports the agency's conclusion that the proposal of a single qualified developer in this area posed a significant risk to successful performance.⁵ See AR, Tab 8b at 25; COS at 16-20. On these facts, we see no basis to object to the agency's assignment of a significant weakness under the technical quality evaluation factor.

Likewise, the protester's contention is unfounded that the agency impermissibly double-counted this weakness by assigning a second weakness under the corporate experience and key personnel evaluation factor. First Supp. Protest at 18. In its evaluation of Octo's proposal, the agency concluded that the development lead's resume did not demonstrate direct software development experience and assigned the protester's proposal a weakness on that basis. COS at 28-29. The agency concedes that the development lead's lack of direct development experience would have been unobjectionable if the protester's technical approach involved the development lead primarily performing management of development, because the individual has extensive qualifications as a manager of software development. See COS at 29; AR, Tab 5A, Octo Technical Proposal at 40-41. However, the protester proposed that the development lead would perform significant amounts of direct software development. AR, Tab 5A, Octo Technical Proposal at 40-41. The agency, therefore, was reasonably concerned about the lack of information in the individual's resume showing that the individual had the experience to perform the function contemplated by the protester's technical approach. COS at 16-20, 28-29.

Our review of the record gives us no basis to question the assignment of either of these weaknesses. Octo's staffing approach prompted two separate and distinct concerns. First, the proposal of inadequate overall development resources underlies the significant weakness assessed under the technical quality evaluation factor. Second, the use of a development lead to perform direct development without demonstrated qualifications in the individual's resume forms the basis of the weakness assessed under the corporate experience and key personnel evaluation factor. Moreover, even if the protester were correct that both weaknesses related to the same flaw, the record shows that both

⁴ By contrast, the intervenor proposed three developer full-time equivalents, which depending on their ultimate staffing approach may result in three or more individual developers supporting the effort. AR, Tab 6D, Northrop Grumman Price Workbook.

⁵ The protester suggests that its proposed [DELETED] process would ameliorate any risk posed by proposing a single developer. First Supp. Protest at 16-17. It is unclear how the addition of a quality control step that would involve an unidentified additional [DELETED] would ameliorate the agency's concerns about an inability to complete development tasks in a timely fashion with only a single developer.

weaknesses reasonably related to the evaluation factors under which they were assigned, and there is nothing inherently wrong with an agency assigning multiple weaknesses where the same flaw is relevant to multiple evaluation factors. DKW Communications, Inc., B-411182; B-411182.2, June 9, 2015, 2015 CPD ¶ 178 at 11.

Similarly, the protester's argument that the agency erred in assigning a significant weakness for Octo's proposed reduction in staff is also meritless. The protester proposes, as part of its technical approach, to migrate certain agency information technology systems to a [DELETED]. First Supp. Protest at 18-21. As part of this approach, the protester proposed to reduce staffing by two full-time equivalents (FTEs) in the years following the [DELETED] migration, to capture increased efficiency resulting from [DELETED]. Id. The agency, however, expressed concern as the HRConnect system was historically supported by two network engineers, but Octo proposed only a single network engineer, which was one of the two FTEs proposed for removal in future years. MOL at 13-16. In the agency's view, even assuming enhanced efficiencies from a [DELETED], a network engineer would still be necessary to meet the specified service level agreements because of various network connections that would still require maintenance. In addition, the agency's source selection decision document includes significant discussion concerning the risks of unsuccessful performance posed by the removal of the sole network engineer. Id.; AR, Tab 7B, Basis for Award Document at 26-28.

The protester's primary rebuttal⁶ is that the future absence of a network engineer would be mitigated by certain cross-efficiencies with other staff, and because the migration and staff reduction would take place under the direction of a development lead with significant experience with [DELETED] strategy. Protester's Comments and Second Supp. Protest at 14-15. However, the protester does not explain what those cross-efficiencies might be, or where they were outlined in the protester's proposal. Likewise, it is not clear--either from the protester's argument or from its proposal--how the development lead's direction would mitigate the absence of a network engineer. In sum, on this record we have no basis to conclude the agency's assignment of a significant weakness was unreasonable. It is a vendor's burden to submit an adequately written proposal for the agency to evaluate; otherwise it runs the risk of having its proposal downgraded or rejected. Team Systems International, B-411139, May 22, 2015, 2015 CPD ¶ 163 at 5.

⁶ The protester also notes that the reduction in staff was expressly predicated on the agency's approval of the [DELETED] migration, such that if the agency did not approve the migration, no reduction would take place. First Supp. Protest at 21-22. This is unconvincing, however, as the protester's proposed migration and reduction in staff were priced into its proposal, and the proposal did not include an articulated alternative technical approach or price. See AR, Tab 5D, Octo's Price Workbook Tab 5. Furthermore, the protester's proposal specifically contemplated that it may request an equitable adjustment if the agency delays the [DELETED] migration proposal. AR, Tab 5B, Octo's Price Proposal at 14.

Finally, the protester's allegation that the agency erred in assigning a weakness because its program manager lacked HRLOB experience is without merit. The solicitation required vendors to submit three resumes to allow for the agency's evaluation of corporate experience and key personnel. The solicitation provided that "[r]esumes submitted shall specifically address the Key Personnel's experience, including teaming partners and sub-contractors experience, in support of shared service environments and HR Lines of Business." RFP at 178. The protester argues, and the agency concedes, that this language does not require any specific key personnel to have HRLOB experience.

The agency did not assign Octo's proposal a deficiency on this basis, however, or suggest that Octo's program manager was technically unacceptable; rather, the agency merely assigned a weakness on the basis that one of the required resumes did not demonstrate HRLOB experience. The solicitation made it clear that the agency would be assessing proposals on the basis of how well vendors, through the submitted resumes, demonstrated HRLOB experience. RFP at 178. This element of the evaluation was clearly stated, and this protest ground,⁷ in effect, represents nothing more than the protester's disagreement about the significance of its program manager's lack of HRLOB experience. These arguments are, accordingly, without merit.

Price Realism

The protester has advanced several arguments related to the agency's price evaluation, some of which have been withdrawn or abandoned.⁸ The remaining argument suggests that the agency conducted an impermissible price realism analysis by concluding that Octo's proposal represented a cost risk to the government. Protester's Comments and Second Supp. Protest at 12. Octo argues that the solicitation did not provide for a price realism analysis, and that, in the context of an evaluation based on a fixed-price task order, the agency's references to cost risk can only be understood as a conclusion that the protester's price was unrealistically low. Id. at 22-23. Additionally, the protester argues that a price realism analysis in this context constitutes a negative responsibility determination, which, given its small business status, should have resulted in a referral

⁷ The protester initially argued that the weakness was in error because its program manager had line of business experience, but the agency noted in response that the RFP specifically called for human resources line of business experience, which the protester did not meaningfully address in its subsequent comments. See MOL at 19-20. We accordingly consider this argument abandoned. See IntegriGuard, LLC d/b/a HMS Federal--Protest & Recon., B-407691.3, B-407691.4, Sept. 30, 2013, 2013 CPD ¶ 241 at 5.

⁸ For example, the protester initially challenged the agency's evaluation of Northrop's price proposal, but subsequently withdrew that protest ground. Protester's Comments and Second Supp. Protest at 26.

to the Small Business Administration for a Certificate of Competency determination. Id. at 23 n. 7.

In order to conduct a price realism analysis in a fixed-price environment, an agency must provide for such an analysis in the solicitation. Ball Aerospace & Techs. Corp., B-402148, Jan. 25, 2010, 2010 CPD ¶ 37 at 8. However, where, as in this case, the solicitation does not provide for a price realism evaluation, an agency is neither required nor permitted to perform one. See Crown Point Systems, B-413940, B-413940.2, Jan. 11, 2017, 2017 CPD ¶ 19 at 5.

The protester is correct that the solicitation did not provide for a price realism evaluation. However, the agency's assessment of cost risk in this case represents neither a price realism evaluation nor a negative responsibility determination. The record is clear that the agency referred to cost risk alongside technical (or program) risk and schedule risk as risks collectively posed by the protester's staffing approach, with specific reference to the lack of development staff and the proposed removal of the sole network engineer. AR, Tab 7B, Basis for Award Decision Document at 24, 27-28. The agency additionally noted in the price-technical tradeoff that:

Octo's evaluated price was \$7.9M, or 13% lower than [Nothrop Grumman's] total evaluated price. However, the expected savings may be much lower given their proposed staffing level may not be adequate to meet the expected workload. The limited staffing proposed will likely result in the need to issue additional task orders to execute the minimum work required to maintain the HRConnect system. The true cost risk is unknown.

Id. at 29

The purpose of a price realism evaluation is to determine whether proposed prices are so low that they are not realistic for the work to be performed, reflect a lack of clear understanding of the requirements of the solicitation; or are not consistent with the methods of performance described in the vendor's technical proposal. Federal Acquisition Regulation (FAR) § 15.404-1(d); C.L. Price & Assocs., Inc., B-403476.2, Jan. 7, 2011, 2011 CPD ¶ 16 at 3. In other words, a price realism evaluation assesses whether a vendor is likely to be able to execute its proposed technical approach in the manner described at its proposed price.

Here, however, there is no suggestion in the record that the agency concluded that the protester will be unable to retain the staff it proposed at the prices it proposed, or would otherwise, due to its pricing, be unable to execute its proposed technical approach. Rather, the agency concluded that the protester's proposed technical approach is marginal and therefore poses risks, primarily due to the protester's proposed staffing approach. AR, Tab 7B, Basis for Award Decision Document at 24-25. That is to say, even if the proposed technical approach were executed as described, it would still present significant risks of unacceptable performance, delay, and/or additional costs. Id. This view is reinforced by the fact that the protester's price proposal expressly noted

that it may seek a price adjustment if the agency delays its proposed [DELETED] migration, and the agency expressed technical concerns related to that migration.⁹ See AR, Tab 5B, Octo's Price Proposal at 14.

In our view, it is clear that the agency's reference to increased "schedule, cost, and technical risks," or to an unknown cost risk, are not judgments that the protester's proposed price is unrealistic. Rather, they are an elaboration on the agency's view that the protester's technical approach poses a significant risk of failure which ultimately could manifest in various ways, including a requirement for supplemental task orders or an equitable adjustment at additional cost to the agency. AR, Tab 7B, Basis for Award Decision Document at 27-29. In this case, it is the proposed staffing levels which are unrealistically low, not the price. See Advanced Construction Techniques, Inc., B-404847.6, Jan. 25, 2012, 2012 CPD ¶ 54 at 13 (notwithstanding the lack of a price realism evaluation factor, protest denied where agency expressed concerns regarding an offeror's low price that were entirely derived from reasonable concerns regarding offeror's lack of technical understanding). Accordingly, this argument is denied.

Alleged Evaluation Errors in the Awardee's Proposal

The protester further alleges that the agency erred in evaluating the awardee's proposal in several respects.¹⁰ For example, the protester alleges that the agency failed to consider negative past performance information in its possession related to high personnel turnover during Northrop's performance of the incumbent contract in 2014.¹¹ Protester's Comments and Second Supp. Protest at 24-25. The protester contends that the agency was required by the FAR to consider all past performance information retrieval system (PIRS) reports for the incumbent contract in evaluating Northrop, and,

⁹ As discussed above, Octo's proposed [DELETED] migration involved an eventual reduction in staff that would remove Octo's sole proposed network engineer, and this proposed staff reduction was the basis of one of the significant weaknesses assigned to Octo's proposal. See AR, Tab 7B, Basis for Award Document at 26-28.

¹⁰ As part of its comments on the agency's first supplemental legal memorandum, the protester argued that the agency did not consider a mismatch between Northrop's technical and price proposals. Protester's Comments on First Supp. Agency Report at 4-7. The protester received Northrop's proposal on July 16, but did not raise the issue until August 10, more than ten days later. Accordingly, we dismiss this argument as untimely as it was not raised within ten days of when the protester knew or should have known the basis for this protest ground. 4 C.F.R. § 21.2(a)(2).

¹¹ The protester additionally alleges that Northrop incurred cost overruns related to an upgrade of the PeopleSoft software system during the incumbent contract, but provides no meaningful evidence in support of that claim. We, accordingly, dismiss this protest ground as legally insufficient due to the lack of supporting evidence, especially in light of the contracting officer's contention that the upgrade in question was completed on-time and under budget. 4 C.F.R. § 21.1(f); COS at 34.

in any case, could not ignore information already in its possession. Id. (citing FAR § 42.1503(g)).

The agency responds that the RFP provided that it would evaluate past performance by considering information from PPIRS or from other available sources such as points of contact from the vendor's corporate experience profile submission. MOL at 32-34. The agency further contends that, consistent with that requirement, the technical evaluators did not consider PPIRS, but instead chose to evaluate information collected from each vendor's corporate experience profile submissions, which, in Northrop's case, included the incumbent contract.¹² Id.; See also AR, Tab 6A, Northrop Grumman Technical Proposal at 42. Additionally, the agency argues that the alleged turnover issue occurred in 2014, so it would have been inappropriate to consider information related to that issue because it took place more than three years ago, and was therefore outside the RFP's recency period for consideration of past performance information. MOL at 32-34. In the alternative, the agency notes that, while the PPIRS were not considered by the technical evaluation team, the PPIRS prepared for Northrop during the entire period of performance on the incumbent contract were positive, receiving ratings of satisfactory, very good, or excellent, and those for the most recent three years of that contract were either very good or excellent. Id. at 32.

In light of the PPIRS information described by the agency, and the fact that the agency considered Northrop's performance under the incumbent contract using the relevant corporate experience profile submission, we find the protester's arguments here unpersuasive. Even assuming, for the sake of argument, that the protester is correct that the agency was required to consider the older PPIRS information concerning Northrop, the protester has not demonstrated that any actually negative past performance information existed.¹³ The fact that the PPIRS in question resulted in positive ratings suggests that, to the extent Northrop may have had any negative performance outcomes, it successfully mitigated them. See COS at 33. Accordingly, on this record, it is unclear what, if any, negative past performance information the agency failed to consider, and in what way the protester was prejudiced by the agency's failure to consider PPIRS information. Competitive prejudice is an essential element of every viable protest. See Applied Bus. Mgmt. Solutions Inc., LLC, B-405724, Dec. 15, 2011, 2012 CPD ¶ 14 at 9; Joint Mgmt. & Tech. Servs., B-294229, B 294229.2, Sept. 22, 2004, 2004 CPD ¶ 208 at 8.

¹² We note that the contracting officer for the current procurement was the point of contact listed on Northrop's corporate experience profile submission for the prior incumbent contract. See AR, Tab 7B, Basis for Award Decision at 30 and AR, Tab 6A, Northrop Grumman Technical Proposal at 42.

¹³ Apart from the agency's own concessions, the only supporting evidence alleged by the protester concerning Northrop's alleged personnel turnover issues on the incumbent contract is a single anonymous web review from 2014 allegedly authored by a Northrop employee. First Supp. Protest at 34-35.

Disparate or Unequal Treatment

The protester also argues that the agency, in almost every area of evaluation,¹⁴ applied a different evaluation standard to its own proposal than was applied to Northrop's proposal. For example, the protester contends that the agency harshly scrutinized the protester's staffing plan, but gave Northrop the benefit of the doubt, after expressing uncertainty about Northrop's exact staffing approach. Protester's Comments and Second Supp. Protest at 3. As an additional example, the protester argues that the agency assigned it a significant weakness because it only proposed a single developer (or [DELETED] developer FTEs), while Northrop only assigned [DELETED] FTEs for database administration, but did not receive a similar weakness. Protester's Comments on First Supplemental Agency Report at 2-7.

As noted above, in reviewing an agency's evaluation, we will not reevaluate proposals, but will examine the record to ensure that it was reasonable and in accordance with the stated evaluation criteria and applicable procurement statutes and regulations. PMC Solutions, Inc., B-310732, Jan. 22, 2008, 2008 CPD ¶ 20 at 2. It is a fundamental principle of federal procurement law that a contracting agency must treat all vendors equally and evaluate their proposals evenhandedly against the solicitation's requirements and evaluation criteria. Rockwell Elec. Commerce Corp., B-286201 et al., Dec. 14, 2000, 2001 CPD ¶ 65 at 5.

The disparate treatment arguments presented by the protester appear to stem primarily from a difference in the level of detail provided in the respective proposals of the vendors. Specifically, the protester provided a very detailed accounting of personnel it intended to employ (by name), and noted that its proposal identified "100 percent of the staff needed to perform all work" under the first task order. AR, Tab 5A, Octo Technical Proposal at 12. By contrast, Northrop identified staff primarily by FTE quantity and proposed the required key personnel by name. Thus, Northrop's proposal did not provide a similar level of specificity concerning the numbers or names of individuals it intended to employ to carry out the first task order. AR Tab 6A, Northrop Technical Proposal at 6, 14-15, 21-22.

Despite the different approaches taken by the offerors, the RFP did not require the level of detail that Octo provided in its proposal. For example, the exact staffing approach for the first task order was not required until 30 days after the task order was issued. RFP at 179. Had the agency insisted on a similar level of detail from Northrop, it would have been applying an unstated evaluation criterion. Having provided a higher than necessary level of detail in its proposal, Octo cannot now object that the agency evaluated it on that basis, but applied the announced evaluation criterion in its evaluation of Northrop's proposal. See APEX-MBM.JV, B-405107.3, Oct. 3, 2011, 2011

¹⁴ While we do not address all of the protester's disparate treatment arguments here, we have considered them all and conclude that none form a basis to sustain the protest.

CPD ¶ 263 at 5-6 (sustaining protest where agency improperly determined proposal was unacceptable for not proposing specific staff deployments because RFP did not require such specificity in proposals and only required specific plans after award).

Similarly, the protester correctly points out that the technical evaluation report noted that Northrop's "staffing models and the price proposal [do] not make it clear how the Contractor will staff the first task order," and that Northrop would provide this information in its first contract deliverable when awarded the task order. AR, Tab 8B, Technical Evaluation Consensus Report at 20. However, Northrop was not required to include that level of specificity in its proposal, but rather was to provide it within 30 days of issuance of the task order. Id. Additionally, we have no basis to doubt the agency's subsequent, consistent explanation that its uncertainty about Northrop's precise staffing approach was based on the use of fractional FTEs in Northrop's proposal, such that the exact underlying number of staff was not yet clear. First Supp. MOL at 3.

The protester's additional argument¹⁵ concerning database administrator FTEs represents simple disagreement with the agency's technical judgment and does not establish unequal treatment. Octo proposed [DELETED] developer FTEs and [DELETED] database administrator FTEs¹⁶ and received a significant weakness for its lack of proposed development staff, but no weakness for its proposed database administration staff. See AR, Tab 7B, Basis of Award Decision Document at 24-25; AR, Tab 5E, Octo Price Proposal Addendum at 1-2. While a cursory reading of Northrop's proposal suggests that it proposed [DELETED] developer FTEs and [DELETED] database administrator FTEs, a closer reading of Northrop's proposal shows that it specified that [DELETED] of the [DELETED] proposed information technology specialist FTEs would perform database administration support. AR, Tab 6A, Northrop Technical Proposal at 14-15. This suggests that Northrop in fact proposed at least [DELETED]¹⁷ FTEs for database administration. Id. Accordingly, the evaluation does not, on closer inspection, appear to be unequal. Both Octo and Northrop proposed similar quantities

¹⁵ The agency contends this argument is untimely raised because it was not raised within 10 days of receipt of the technical evaluation report and Northrop's proposal. Second Supp. MOL at 2-4. However, it is not clear that the protester knew or had reason to know the precise source of the agency's uncertainty regarding Northrop's proposed staffing until the agency explained that the technical evaluation team was referring to fractional or percentage FTEs. See First Supp. MOL at 2-3. Accordingly, we will consider this protest ground on the merits.

¹⁶ Contrary to the statement in the second supplemental legal memorandum, Octo proposed [DELETED] database administrator FTEs, not [DELETED]. Compare Second Supp. MOL at 8 with AR, Tab 5E, Octo Price Proposal Addendum at 1-2.

¹⁷ Northrop's proposal also included a lead technical architect, whose resume indicates substantial direct database administration experience, that the proposal contemplated would also be able to provide support across various areas, to include database administration. See AR, Tab 6A, Northrop Technical Proposal at 14-15 and 38-39.

of staff for database administration, for which no weakness was assigned to either proposal. In contrast, Northrop's proposed development staff exceeded Octo's proposed development staff, and in this area Octo received a significant weakness. These protest grounds are accordingly denied.

Best-Value Tradeoff

The protester argues that the agency's best-value tradeoff was inadequately documented and did not give due consideration to the protester's small business status. Specifically, the protester argues that the agency mechanically relied on adjectival ratings, failed to adequately justify paying a price premium for Northrop's proposal, and did not meaningfully address the protester's small business status. First Supp. Protest at 44-47.

Where, as here, an agency selects a higher-priced proposal that has been rated technically superior to a lower-priced one, the award decision must be supported by a rational explanation demonstrating that the higher-rated proposal is in fact superior, and explaining why its technical superiority warrants the additional cost. e-LYNXX Corp., B-292761, Dec. 3, 2003, 2003 CPD ¶ 219 at 7. Such judgments are by their nature often subjective; nevertheless, the exercise of these evaluation judgments must be reasonable and bear a rational relationship to the announced criteria upon which competing offers are to be selected. Hydraudyne Sys. and Eng'g B.V., B-241236, B-241236.2, Jan. 30, 1991, 91-1 CPD ¶ 88 at 4. In order for us to review an agency's evaluation judgment, the agency must have adequate documentation to support its judgment. See Southwest Marine, Inc.; American Sys. Eng'g Corp., B-265865.3, B-265865.4, Jan. 23, 1996, 96-1 CPD ¶ 56 at 10.

First, we do not agree with the protester that the agency failed to adequately document or justify paying a price premium for Northrop's proposal. The agency's trade-off decision provides several pages of discussion outlining in detail the agency's concerns with Octo's technical approach and the contrasting technical strengths of Northrop's approach, carefully discussing the risks posed by Octo's low staffing levels in key areas. AR, Tab 7B, Basis for Award Decision Document at 26-29. Ultimately, the agency concluded that Northrop proposed [DELETED] percent more staff for an approximately 13 percent higher price. Id. at 29. The protester contends that such a comparison is an inappropriate method of conducting a trade-off decision, as evaluating FTEs by quantity rather than quality is comparing "apples to oranges." Protester's Comments and Second Supp. Protest at 28-29.

Our review of the record leads us to conclude that the protester's criticism is unmerited. The comment Octo criticizes follows a robust discussion of the technical differences between the proposals. AR, Tab 7B, Basis for Award Decision Document at 26-29. The protester fails to address the fact that the awardee proposed not only more staff, but more of the specific types of staff that the agency was seeking (i.e. network engineers and developers). Id. In our view, the agency clearly recognized that

Northrop provided more of the staff that the agency was seeking (and more staff overall) at a better unit price.

With respect to the protester's contention that the agency failed to consider that the protester received an excellent rating for socioeconomic status, while the awardee received a neutral rating, we note that socioeconomic status was the least important technical factor. AR, Tab 7B, Basis for Award Decision Document at 29. In contrast, Octo was rated marginal for technical quality, which was the most important technical evaluation factor, while the awardee was rated good. AR, Tab 7B, Basis for Award Decision Document at 28-29. On the second most important factor, corporate experience and key personnel, Octo was rated good, while the awardee was rated excellent. Id. It was only on the least important technical factor, socioeconomic status, that Octo was rated higher than the awardee. Id. On this record, we see no basis to conclude that the agency reached an unreasonable result, even though we recognize that Octo's proposal received a higher rating under the socioeconomic status evaluation factor.

The protest is denied.

Thomas H. Armstrong
General Counsel