



Decision

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Matter of: Technatomy Corporation

File: B-414672.5

Date: October 10, 2018

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DIGEST

1. Protest challenging the agency's evaluation of price is sustained where the agency failed to reasonably determine whether offerors' proposed prices were fair and reasonable.
2. Protest challenging the agency's evaluation of the protester's proposal under the most important non-price factor, the innovation factor, is denied where there is no evidence that the protester was prejudiced by any alleged evaluation errors.
3. Protest challenging the agency's evaluation of awardees' proposals under the innovation factor is denied where the record reflects that the agency's evaluation was reasonable and consistent with the solicitation.
4. Protest alleging that the agency identified strengths in other offerors' proposals, but unreasonably failed to recognize similar strengths in the protester's proposal is denied where the agency provided a meaningful explanation for differences in its assignment of strengths to the proposals.

5. Protest challenging the agency's best-value tradeoff is sustained where the record reflects that the agency performed a mechanical analysis that failed to meaningfully consider price and resulted in the exclusion of technically acceptable proposals.

DECISION

Technatomy Corporation, of Fairfax, Virginia, protests its failure to receive a contract award under request for proposals (RFP) No. HC1047-17-R-0001, issued by the Department of Defense (DoD), Defense Information Systems Agency (DISA), for information technology (IT) engineering services.¹ The protester challenges the agency's price evaluation, contending that the agency failed to rationally determine whether offerors' proposed prices were fair and reasonable. The protester also challenges the agency's evaluation of its proposal under several of the non-price evaluation factors. Finally, the protester challenges the agency's best-value tradeoff analysis, arguing that the agency failed to meaningfully consider price in its analysis.

We sustain the protest in part, deny it in part, and dismiss it in part.

BACKGROUND

DISA issued the RFP on February 22, 2017, using full and open competition, with the intent to establish a Multiple Award Task Order Contract (MATOC) referred to as the Systems Engineering, Technology, and Innovation (SETI) contract. Agency Report (AR), Tab 1, RFP at 1, 11, 102. The primary objective of the SETI contract is to provide engineering and technical support, services, and products globally to DoD, DISA, and DISA mission partners. Id. at 12. In this regard, the SETI contract "provides an overarching streamlined process for ordering a wide variety of critical IT engineering performance-based services while ensuring consistency and maximum opportunity for competition." Id.

The scope of the SETI contract includes a broad array of research and development, as well as "critical technical disciplines core to engineering, delivering, and maintaining DoD and DISA IT products and capabilities." Id. The performance work statement (PWS) identified the following eight task areas: (1) system engineering; (2) design analysis engineering; (3) systems architecture; (4) software systems design and development; (5) systems integration; (6) systems test and evaluation; (7) systems deployment and life-cycle engineering; and (8) special systems engineering requirements. Id. at 12-13.

¹ DISA awarded contracts to the following 14 firms: AASKI Technology, Inc. (AASKI); Accenture Federal Services (Accenture); BAE Systems Technology Solutions & Services (BAE); Booz Allen Hamilton, Inc. (BAH); Deloitte Consulting LLP (Deloitte); Harris Corporation (Harris); International Business Machines Corporation (IBM); KeyW Corporation (KeyW); Leidos Innovations Corporation (Leidos); LinQuest Corporation (LinQuest); NES Associates LLC (NES); Northrop Grumman Systems Corporation (Northrop Grumman); Parsons Government Services, Inc. (Parsons); and Vencore, Inc.

The RFP anticipated the award of multiple indefinite-delivery, indefinite-quantity (IDIQ) contracts in two pools: an unrestricted pool and a restricted pool.² AR, Tab 5, RFP Amend. 4, at 30. The protester submitted a proposal for consideration in the unrestricted pool and the awards at issue here relate to that pool. The RFP indicated that DISA intended to award approximately 10 contracts on an unrestricted basis and approximately 20 contracts on a restricted basis. Id. However, the agency expressly reserved the right to award more, less, or no contracts at all. Id.

The RFP provided that the ordering period would consist of a 5-year base period and a 5-year option period. AR, Tab 1, RFP at 41. Orders issued under the contract would be performed on a fixed-price, cost reimbursement, and/or time-and-materials basis, or a combination thereof, and might also include incentives. AR, Tab 5, RFP Amend. 4, at 30. The maximum dollar value for all contracts, including the base and option periods, is \$7.5 billion. AR, Tab 1, RFP, at 8.

Evaluation Criteria

The solicitation provided for award on a best-value tradeoff basis consisting of price and the following four non-price factors, listed in descending order of importance: (1) innovation, (2) past performance, (3) problem statements, and (4) utilization of small business. AR, Tab 5, RFP Amend. 4, at 50-51. When combined, the non-price factors were significantly more important than price. Id. at 51. The RFP indicated that DISA intended to award without discussions, but also reserved the right to conduct discussions if in the agency's best interest. Id. at 33, 50, 58.

With respect to the most important factor, innovation, section L of the RFP provided a lengthy explanation of how DISA viewed innovation, id. at 39-42, including the following definition of the term:

Definition of Innovation as it relates to the evaluation of this factor.

To DISA, and the DoD, fostering a creative culture and driving Innovation in defense of the country are paramount success criteria in executing the SETI Contract. In the SETI procurement, the Government is looking for innovative companies that accelerate attainment of new information system capabilities. In this context and for the evaluation of this factor, "innovative" means –

- (1) any new technology, process, or method, including research and development; or

² The restricted pool was set aside for small business concerns under North American Industry Classification System (NAICS) Code 541412. AR, Tab 5, RFP Amend. 4, at 30.

(2) any new application of an existing technology, process, or method.

Id. at 39. As relevant here, section L of the RFP instructed offerors to address the following five criteria in their proposals in order to demonstrate their capabilities and proposed efforts to achieve and provide innovation:

- Section L.4.2.3.1, Corporate Philosophy/Culture on Innovation
- Section L.4.2.3.2, Investment in Innovation
- Section L.4.2.3.3, History of Engineering and Deploying Innovative Solutions
- Section L.4.2.3.4, Outreach and Participation
- Section L.4.2.3.5, Certifications, Accreditations, Awards, Achievements, and Patents.

Id. at 40-42. Under each criterion, the RFP included several bullets that offerors were to address. Id. As an example, under section L.4.2.3.5, Certifications, Accreditations, Awards, Achievements, and Patents, offerors were to address the following:

The Offeror shall:

- List and describe Awards and Achievements received that were awarded because of Innovation.
- List and describe the company's patents owned and applied for and how they relate to the SETI PWS.
- List of published papers regarding Innovation and successful implementation of an innovative process and solutions.
- Any other related information regarding the company's achievements related to Innovation.
- List Certifications and Accreditations that your company has that relate to Innovation.

Id. at 42.

In section M, the RFP provided that DISA would evaluate offerors' responses to the criteria described in section L. Id. at 52. The RFP further provided that the agency would consider strengths, weaknesses, significant weaknesses, uncertainties, and deficiencies in an offeror's proposal and would assign the proposal one of the following color/adjectival ratings reflecting an overall risk of "failure to be innovative:" blue/outstanding, purple/good, green/acceptable, yellow/marginal, or red/unacceptable. Id. at 51-52.

Under the past performance factor (factor 2), offerors were instructed to submit up to three references that the agency would evaluate for recency, relevancy, and quality of effort. Id. at 42-43, 52-54. The agency also reserved the right to obtain past performance information from any sources available to the government. Id. at 52. In evaluating past performance, the RFP provided that the agency would assign one of the

following performance confidence ratings: substantial confidence, satisfactory confidence, neutral confidence, limited confidence, or no confidence. Id. at 54.

Under the problem statements factor (factor 3), offerors were asked to demonstrate their technical skills and ingenuity by solving two hypothetical problems. The purpose of these notional problems was to provide DISA insight into an offeror's ability to meet the requirements and the offeror's problem solving methodologies. Id. at 44. Offerors in the unrestricted pool were to respond to problem statements 1 and 2. AR, Tab 4, RFP Amend. 3, Attach. 7, Problem Statements. The problem statements were weighted equally and were each assigned one of the following ratings: blue/outstanding, purple/good, green/acceptable, yellow/marginal, or red/unacceptable. AR, Tab 5, RFP Amend. 4, at 55.

Under the utilization of small business factor (factor 4), offerors were instructed to submit a small business participation plan outlining how offerors intended to maximize the utilization of small businesses. Id. at 46. The RFP stated that the agency would evaluate the offerors' submissions for adequacy of the proposed small business participation plan and proposed goals, and would assign one of the following ratings to the proposal: blue/outstanding, purple/good, green/acceptable, yellow/marginal, or red/unacceptable.³ Id. at 56.

Finally, with respect to price, offerors were instructed to input direct labor rates and indirect rates, to include profit/fee, into a spreadsheet provided by DISA in which the agency listed the applicable labor categories with an estimate of the labor hours for each category. Id. at 48; AR, Tab 4, RFP Amend. 3, Attach. 9, Pricing Spreadsheet. The record reflects that, for nearly every labor category, the agency requested a rate for a junior, mid-level, and senior position. AR, Tab 4, RFP Amend. 3, Attach. 9, Pricing Spreadsheet. The RFP indicated that the spreadsheet would calculate the fully burdened labor rate for each category and the total proposed price for the offeror.⁴ AR, Tab 5, RFP Amend. 4, at 48, 57. As relevant here, the RFP informed offerors that the agency would review the fully burdened fixed price labor rates for reasonableness and completeness using one of the techniques defined in section 15.404 of the FAR.⁵ Id.

³ Under this factor, firms other than small businesses were also required to submit a subcontracting plan meeting the requirements of Federal Acquisition Regulation (FAR) clause 52.219-9 and Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.219-7003. AR, Tab 5, RFP Amend. 4, at 48.

⁴ The labor rates would be the "capped ceiling" for that labor category for any fixed-price or time-and-materials task orders. AR, Tab 5, RFP Amend. 4, at 48. Offerors would be permitted to propose less than the capped rates. Id.

⁵ The RFP provided that no cost or price realism analysis would be conducted at the IDIQ contract level, but that costs for cost-reimbursement work would be evaluated at the task order level and would be subject to cost realism analysis at that time. AR, Tab 5, RFP Amend. 4, at 48. The RFP stated that "[f]ixed price direct labor rates may
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at 57. The RFP provided that DISA would also evaluate proposals for unreasonably high prices and unbalanced pricing, and that the existence of such prices “may be grounds for eliminating a proposal from competition.” Id. at 49, 57. Offerors were instructed that price submissions should be sufficiently detailed to demonstrate their reasonableness. Id. at 48. Only the total proposed price would be used for tradeoffs between price and non-price factors. Id.

Evaluation of Proposals

The agency received 35 timely proposals in response to the solicitation. AR, Tab 65, SSDD, at 1; Memorandum of Law (MOL)/Contracting Officer’s Statement (COS) at 23. As set forth in the RFP, proposals were evaluated using a multi-step process. AR, Tab 5, RFP Amend. 4, at 57-58. First, proposals were evaluated by five separate and distinct evaluation boards—one for each factor—and consensus reports were prepared. AR, Tab 26, Technical Evaluation Board (TEB) Report (Innovation); Tab 27, TEB Report (Past Performance); Tab 28, TEB Report (Problem Statements); Tab 29, TEB Report (Utilization of Small Business); Tab 60, Price/Cost Evaluation Report.

Next, the contracting officer executed a memorandum for record (MFR) determining that the proposed prices of all offerors were fair and reasonable. AR, Tab 61, Pricing MFR, at 1. In reaching this conclusion, the contracting officer relied upon the Price/Cost Evaluation Report, id., which found that price reasonableness “is normally established by adequate competition” and, therefore, because 35 offerors submitted proposals, “it is implicit that price reasonableness has been determined at the macro level.”⁶ See e.g., AR, Tab 60, Price/Cost Evaluation Report, at 4. The Price Evaluation Board (PEB) did not compare offerors’ prices; the contracting officer likewise noted the 35 offers and concluded that “[t]he presumption is that all proposed prices are fair and reasonable if there is adequate competition.” AR, Tab 61, Pricing MFR, at 1 (citing FAR § 15.404-1(b)(2)(i)).

Around the same time, the Source Selection Evaluation Board (SSEB) reviewed the evaluation boards’ consensus reports, verified the evaluation results, and prepared an SSEB report. AR, Tab 62, SSEB Report. In some cases, the SSEB made changes to the assessments recommended by the various TEBs. The SSEB did not conduct a comparative analysis of proposals. Id. at 2.

Next, the Source Selection Advisory Council (SSAC) reviewed the evaluation record and ratings, and prepared a report for the Source Selection Authority (SSA). AR,

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be used in determining the reasonableness and realism of direct labor rates for future cost-reimbursement work at the Task Order level.” Id. at 49.

⁶ The agency repeated this same conclusion verbatim in its review of each offeror’s proposal.

Tab 63, SSAC Report. Additionally, the SSAC performed a comparative analysis of the proposals, recommending award to the 14 offerors the SSAC deemed to be the “highest rated proposals” under the non-price factors. The SSAC concluded that “the technical merit of those proposals justifies paying a price premium over lower-rated, lower-priced proposals.” Id. at 13. Finally, the SSA reviewed and analyzed the SSEB and SSAC reports prior to executing a Source Selection Decision Document (SSDD). AR, Tab 65, SSDD.

With respect to the agency’s evaluation of Technatomy’s proposal under the innovation factor, the agency identified one weakness and assigned the proposal a rating of green/acceptable. AR, Tab 62, SSEB Report, at 183. The SSEB also provided two “notes” under this factor, which described concerns the SSEB identified in the proposal but which the SSEB concluded “did not rise to the level of a weakness[.]”⁷ Id. Under the past performance factor, the agency assigned Technatomy’s proposal the highest rating of substantial confidence. Id. at 184. Under the problem statements factor, the agency identified no strengths and no weaknesses for either problem, and assigned both problem statements ratings of green/acceptable. Id. Under the utilization of small business factor, the agency identified two strengths and assigned the proposal a rating of purple/good. Id. at 185. Technatomy’s total proposed price was [DELETED]. AR, Tab 60, Price/Cost Report, at 2.

⁷ The agency explains that the notes were retained by the TEB in order to provide useful feedback to Technatomy in its debriefing. MOL/COS at 26-27, 40. In this respect, the agency contends that the notes were simply “helpful pointers,” and did not constitute weaknesses. Id. at 27.

Below is a summary of the agency's ratings of the proposals of the 14 awardees and Technatomy:

Offeror	Factor 1	Factor 2	Factor 3		Factor 4	Factor 5
	Innovation	Past Performance	Problem 1	Problem 2	Small Business	Price
IBM	Outstanding	Substantial	Acceptable	Good	Good	\$234,935,046
Accenture	Outstanding	Neutral	Good	Good	Good	\$179,623,424
Northrop Grumman	Good	Substantial	Good	Good	Good	\$269,623,861
Vencore	Good	Substantial	Acceptable	Acceptable	Outstanding	\$156,662,569
BAH	Good	Substantial	Acceptable	Acceptable	Good	\$134,266,455
Leidos	Good	Substantial	Acceptable	Acceptable	Good	\$144,662,993
Harris	Good	Satisfactory	Outstanding	Outstanding	Good	\$184,752,341
BAE	Acceptable	Substantial	Outstanding	Good	Good	\$156,962,323
NES	Acceptable	Substantial	Good	Good	Good	\$137,217,707
LinQuest	Acceptable	Substantial	Good	Good	Good	\$175,049,125
Deloitte	Acceptable	Substantial	Acceptable	Good	Outstanding	\$126,180,137
Parsons	Acceptable	Substantial	Good	Acceptable	Outstanding	\$178,181,282
KeyW	Acceptable	Substantial	Good	Acceptable	Good	\$123,192,620
AASKI	Acceptable	Substantial	Good	Acceptable	Good	\$181,683,274
Technatomy	Acceptable	Substantial	Acceptable	Acceptable	Good	\$159,959,105

AR, Tab 65, SSDD, at 3, 16.

Best-Value Tradeoff Analysis

In conducting the source selection, the SSA adopted a multi-step methodology to narrow the pool of proposals under consideration. First, noting the importance of the innovation factor, the SSA looked to the ratings under this factor. The SSA identified seven proposals that were rated either outstanding or good under the innovation factor: IBM, Accenture, Northrop Grumman, Vencore, BAH, Leidos, and Harris. Id. at 5.

For each of the seven offerors included in this first pool, the SSA noted where the offeror's price fell among all offerors.⁸ Id. at 5-9. Next, the SSA listed, at a high level, the strengths (and any weaknesses) assigned to the proposal under the non-price factors. After summarizing the underlying evaluation, the SSA concluded with regard to each of the seven proposals that the proposal's strengths under the non-price factors merited "its selection over lower-rated, lower-priced proposals." See e.g., id. at 5. Despite the SSA's stated conclusion, however, these awards were made without any consideration of whether associated price premiums were justified by increased technical merit, as set forth in greater detail later in the decision.

In order to identify a second pool of proposals for consideration, the SSA next looked to those proposals that received a rating of acceptable on the innovation factor. Id. at 9. Noting that there were 26 such proposals, the SSA further narrowed the pool to those proposals with a rating of acceptable on the innovation factor in combination with a rating of substantial confidence on the past performance factor. Id. Noting that there were still a large number of proposals (18), the SSA further narrowed the pool to those proposals with a rating of acceptable on the innovation factor, a rating of substantial confidence on the past performance factor, and a rating of good or better on both problem statements. Id. This resulted in a pool of three proposals: BAE, NES, and LinQuest. Id. at 9-11.

For each of the three offerors included in this second pool, the SSA performed essentially the same analysis as used for the first pool. That is, the SSA noted where the offeror's price fell among all offerors; listed, at a high level, the strengths assigned to the proposal under the non-price factors; and concluded that strengths under the non-price factors merited selection of the proposal over "lower-rated, lower-priced proposals." See e.g., id. at 10.

At this point, the SSA considered concluding the tradeoff analysis in light of the fact that the agency had selected 10 proposals for award, which was the approximate number of anticipated awards set forth in the RFP. Id. at 11; AR, Tab 5, RFP Amendment 4, at 30. The SSA noted, however, that four additional proposals--those of Deloitte, Parsons, KeyW, and AASKI--were assigned essentially the same ratings as the proposals of BAE, NES, and LinQuest with the exception that the four additional proposals received one good rating and one acceptable rating for the problem statements. Id. at 11. The SSA decided to include these four proposals because more offerors could "potentially driv[e] prices down in future task order competitions." Id. The SSA further observed that "[t]wo of the next four most highly rated proposals also have comparatively low total proposed prices (ranked [DELETED] and [DELETED] by price), which could benefit

⁸ For example, with respect to IBM's price, the SSA noted that "[t]his Offeror's total proposed price was ranked [DELETED] of 35." Id. at 5.

future price competition.”⁹ Id. Like the proposals in the first two pools, the SSA recommended each of these four proposals for award on the basis that the strengths under the non-price factors merited selection over “lower-rated, lower-priced proposals.” See id. at 11-13.

With respect to the remaining technically acceptable proposals that were not included in the above pools, the SSA considered the proposals of the two lowest-priced proposals, which we refer to herein as Offeror A (lowest-priced offeror) and Offeror B (second lowest-priced offeror). Id. at 3, 13-14. In both instances, the SSA confirmed the ratings on the non-price factors and concluded that “considering the selection methodology where all non-price factors are significantly more important than price, the SSAC does not believe [the proposal] merits an award as compared to the proposals with higher prices and higher technical merit, and I agree.” See e.g., id. 14.

Finally, with respect to the 19 remaining technically acceptable proposals, including Technatomy’s proposal, the SSA notes that the SSAC “took a final look at all of the ratings for all of the Offerors to see if there were any other proposals with significant technical merit.”¹⁰ Id. at 14. The SSA further noted that the SSAC “did not identify sufficient technical merit in any other proposals to justify their recommendation for award, and I agree.”¹¹ Id. at 13.

In summarizing the SSAC’s recommendation, with which the SSA agreed, the SSA stated that the SSAC “recommended award to the 14 highest rated proposals in the non-price factors, as identified above, because the technical merit of those proposals justifies paying a price premium over lower-rated, lower-priced proposals.” Id. at 16. With respect to making any “additional awards,” the SSA concluded that the remaining 21 proposals “do not have sufficient technical merit.” Id.

⁹ Of course, the SSA’s comment regarding price does not explain why the other two proposals were included. Their inclusion appears to be based solely on the adjectival ratings assigned to the proposals.

¹⁰ In considering the ratings of the other proposals, the SSAC observed that the proposal of one of the offerors, hereinafter Offeror C, appeared to be an “anomaly” because, but for its rating of marginal under the innovation factor, it “could have been in line for award” based on the combination of ratings its proposal received under the other non-price factors. AR, Tab 63, SSAC Report, at 12; Tab 65, SSDD, at 14-15. Other than this one proposal, there is no discussion of any other proposal.

¹¹ The SSAC report does not contain any additional analysis, concluding likewise that it “did not identify sufficient technical merit in any other proposals to justify their recommendation for award.” AR, Tab 63, SSAC Report, at 10.

Notice of Award, Debriefing, and Protest

On June 14, the agency provided notice to all unsuccessful offerors, including Technatomy. AR, Tab 68, Unsuccessful Offeror Letter (Technatomy). Technatomy timely requested a debriefing, which the agency provided on June 15. AR, Tab 100, Technatomy Debriefing. In its letter, the agency advised Technatomy that it could request an enhanced debriefing pursuant to DoD Class Deviation 2018-0011, *id.* at 3, which Technatomy did by submitting additional questions. AR, Tab 104, Enhanced Debriefing Questions from Technatomy. The agency responded to the questions on June 25. AR, Tab 108, Agency Response to Enhanced Debriefing Questions. This protest followed on July 2.

DISCUSSION

Technatomy raises five primary grounds of protest: (1) the agency failed to rationally determine whether offerors' prices were fair and reasonable; (2) the agency erred in assigning a weakness and by including "disparaging statements" as "notes" in its evaluation of Technatomy's proposal under the innovation factor; (3) the agency failed to evaluate several awardees' proposals under the innovation factor in a manner consistent with the RFP; (4) the agency unequally evaluated proposals under the problem statements factor; and (5) the agency failed to perform a reasonable best-value tradeoff analysis. For the reasons discussed below, we sustain protest grounds 1 and 5. We dismiss in part and deny in part the remaining protest grounds.¹²

Price Evaluation

Technatomy claims that the agency failed to rationally determine whether offerors' proposed prices were fair and reasonable. Protest at 1-2. In this respect, the record reflects that the agency relied upon adequate price competition as set forth in FAR § 15.404-1(b)(2)(i) to determine that the offerors' prices were reasonable. Technatomy claims that DISA failed to compare offerors' prices as contemplated in this section. Protest at 19; Comments, Aug. 10, 2018, at 7; Supp. Comments, Aug. 27, 2018, at 4. As a result, Technatomy contends that the agency failed to identify several instances of

¹² Technatomy raises other collateral arguments. We have reviewed these arguments and find that none provides a basis to sustain the protest. For example, Technatomy argues that it should have received a higher rating under the utilization of small business factor (factor 4) because it proposed an "exceptional level of small business utilization, consisting of 50% of the total acquisition value targeted for small business." Comments, Aug. 10, 2018, at 18. The agency in its supplemental report responded to this allegation. Supp. MOL/COS at 11-12. Technatomy's supplemental comments on the report did not address the agency's response. We therefore consider Technatomy to have abandoned this allegation, and we will not consider it further. Bauer Technologies, Inc., B-415717.2, B-415717.3, June 22, 2018, 2018 CPD ¶ 217 at 3 n.4.

high pricing by awardees.¹³ Comments at 6-7. Our review of the record confirms that the agency failed to reasonably determine whether offerors' prices were fair and reasonable.

It is a fundamental principle of federal procurement law that procuring agencies must condition the award of a contract upon a finding that the contract contains "fair and reasonable prices." FAR §§15.402(a), 15.404-1(a). See Crawford RealStreet Joint Venture, B-415193.2, B-415193.3, Apr. 2, 2018, 2018 CPD ¶ 121 at 9. The purpose of a price reasonableness analysis is to prevent the government from paying too high a price for a contract. Crawford RealStreet Joint Venture, supra.

An agency may use various price analysis techniques and procedures to ensure a fair and reasonable price, including the comparison of proposed prices to each other, to prices found reasonable on previous purchases, or to an independent government estimate. FAR § 15.404-1(b)(2); TransAtlantic Lines, LLC, B-411846.3, B-411846.4, May 18, 2016, 2016 CPD ¶ 148 at 7. The manner and depth of an agency's price analysis is a matter committed to the discretion of the agency, which we will not disturb provided that it is reasonable and consistent with the solicitation's evaluation criteria and applicable procurement statutes and regulations. See TransAtlantic Lines, LLC, supra; Federal Acquisition Servs. Alliant JV, LLC, B-415406.2, B-415406.3, Apr. 11, 2018, 2018 CPD ¶ 139 at 11.

Here, the RFP provided that the agency would evaluate offerors' prices using one or more of the techniques set forth in FAR § 15.404 in order to determine whether prices were reasonable and complete. AR, Tab 5, RFP Amend. 4, at 57. More specifically, as DISA acknowledges, the RFP stated that the agency would evaluate the offerors' fully burdened fixed-price labor rates for reasonableness and that unreasonably high prices may be grounds for eliminating a proposal from competition. Id. at 49, 57. See Supp. MOL/COS at 3 ("[T]he solicitation [] contemplated performing a price analysis on the total fixed price labor rates[.]").

Although the RFP did not stipulate the specific price analysis technique the agency intended to use, the RFP indicated that the agency "anticipated conditions of adequate competition." AR, Tab 5, RFP Amend. 4, at 49. Indeed, in response to the protest,

¹³ For instance, Technatomy points out that IBM's total proposed price was \$50 million higher than the price of the next lower priced awardee (Harris). Comments at 7. Northrop Grumman's total proposed price was \$85 million higher than Harris' proposed price. Id. Technatomy further points out that Northrop Grumman's price exceeded the average and median total prices proposed by the awardees and Technatomy by roughly \$100 million, or 60 percent. Protest at 15. In attempting to explain why the pricing for these two awardees was higher than other awardees, Technatomy alleges that IBM's pricing proposal reveals that the offeror was [DELETED]. Comments at 7. Technatomy alleges that Northrop Grumman also proposed [DELETED]. Id. According to Technatomy, the next highest proposed [DELETED]. Id.

DISA confirms that it used the price analysis technique set forth in FAR § 15.404-1(b)(2)(i) because it obtained adequate price competition.¹⁴ MOL/COS at 44.

Section 15.404-1(b)(2)(i) of the FAR permits the government to ensure fair and reasonable prices through:

Comparison of proposed prices received in response to the solicitation.
Normally, adequate price competition establishes a fair and reasonable price.

Here, however, despite DISA's representation that it relied upon FAR § 15.404-1(b)(2)(i), there is no evidence in the record that the agency compared competitors' prices or acted upon that comparison. Rather, the record shows that the PEB evaluated each offeror's price proposal to ensure that it was complete.¹⁵ See e.g., AR, Tab 60, Price/Cost Evaluation Report, at 4, 13. Next, the PEB evaluated proposals to identify any potential unbalanced pricing.¹⁶ See e.g., id. Finally, the PEB considered whether

¹⁴ The agency asserts that it prepared an independent government estimate, AR, Tab 108, Agency Response to Enhanced Debriefing Questions, at 2, but does not assert that it relied upon its estimate to evaluate the reasonableness of offerors' prices.

¹⁵ In evaluating completeness, the agency considered whether: (a) the price volume was logically prepared and in a clear and useful format, (b) the formulas were in the necessary cells and all prices were calculated correctly, and (c) the labor rates proposed for the six month extension period matched the labor rates proposed for option period year 5 in accordance with the instructions in the RFP. See e.g., AR, Tab 60, Price/Cost Evaluation Report, at 22. DISA concluded that all awardees' prices were complete based upon this analysis. Id. at 6, 7, 8, 9, 11, 15-16, 18, 21-22.

¹⁶ Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly over or understated as indicated by the application of cost or price analysis techniques. FAR § 15.404-1(g)(1). In considering whether any proposals contained potentially unbalanced pricing, DISA examined an offeror's fully burdened labor rates within each labor category. AR, Tab 60, Price/Cost Evaluation Report, at 4. As an example, DISA ensured that an offeror's proposed labor rate for a "junior" cloud engineer was lower than the rates for "mid-level" and "senior" cloud engineers. Id. DISA also reviewed each offeror's escalation rates for every year of the contract. Id. With respect to the price proposals of the 14 awardees, the agency identified one proposal that potentially contained unbalanced pricing within a single labor category. Id. at 7-8. In this respect, it appeared that the rates for the junior, mid-level, and senior systems engineers were not sequential. Id. The contracting officer reviewed the offeror's proposed "rate build ups" and concluded that the direct rates were sequential, but that the fully burdened labor rates were not sequential due to differences in indirect rates and profit percentages. AR, Tab 61, Pricing MFR, at 1. The contracting officer concluded that the "direct rates are not unbalanced" and, even if they
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proposed prices were reasonable, concluding that every offeror's total evaluated price was fair and reasonable.

The PEB's entire price reasonableness analysis is set forth in two sentences:

Price reasonableness is normally established by adequate competition (FAR 15.404-1(b)(2)(i)). As this effort has had 35 Offerors provide proposals, it is implicit that price reasonableness has been determined at the macro level.

See e.g., AR, Tab 60, Price/Cost Evaluation Report, at 4. The PEB did not compare offerors' total proposed prices or their fully burdened fixed-price labor rates. Likewise, the contracting officer did not compare any prices at any level. Instead, in the pricing memorandum, the contracting officer stated that "[t]he presumption is that all proposed prices are fair and reasonable if there is adequate competition." AR, Tab 61, Pricing MFR, at 1. We find the agency's conclusions to be unreasonable.

The mere receipt of multiple proposals is inadequate to assure that the prices proposed are fair and reasonable. Put another way, the presence of competition alone does not render prices per se reasonable. To conclude that prices are fair and reasonable without the comparison of prices to one another is illogical and inconsistent with the requirements of FAR § 15.404-1(b)(2)(i). As the plain language of this section indicates, a price reasonableness determination relying upon this price analysis technique requires a "[c]omparison of proposed prices received in response to the solicitation."¹⁷ FAR § 15.404-1(b)(2)(i). See Patriot Taxiway Indus., Inc., B-403690, Dec. 6, 2010, 2010 CPD ¶ 291 at 7-8. There is no indication in the record that DISA, in fact, performed such a comparison.

Because the agency failed to compare offerors' prices, the agency did not consider whether any of the proposed prices were unreasonably high, an analysis that the RFP expressly contemplated. AR, Tab 5, RFP Amend. 4, at 49 ("unreasonably high proposed prices . . . may be grounds for eliminating a proposal from competition"). In this regard, while FAR § 15.404-1(b)(2)(i) suggests that an agency may conclude an awardee's price is reasonable if it is consistent with prices received from competitors, the FAR in no way suggests that the same result if an awardee's price is inconsistent with competitors' prices.

(...continued)

were, "one labor category being unbalanced would not render the entire proposal unbalanced." Id.

¹⁷ Moreover, FAR § 15.404-1(b)(2)(i) plainly states that adequate price competition "normally" establishes price reasonableness, leaving open the possibility that there are exceptions to the general rule.

Contrary to DISA's position, FAR § 15.404-1(b)(2)(i) does not provide that the existence of competition, in and of itself, is sufficient to establish that all competitors' prices are reasonable. Rather, it is the favorable comparison of an awardee's price to its competitors' prices that provides the necessary assurance that a proposed price is fair and reasonable. See e.g., Clearwater Instrumentation, Inc., B-286454.2, Sept. 12, 2001, 2001 CPD ¶ 151 at 5-6 (price reasonableness analysis was proper where prices proposed by three competitors were "relatively consistent and in line with each other"); WKG and Assoc., LLC, B-409835, Aug. 26, 2014, 2014 CPD ¶ 250 at 10 n.11 (comparison of vendors' quotations "satisfies the regulation and evaluation scheme.") (citing FAR § 15.404-1(b)(2)(i)). Furthermore, the agency's conclusion that price comparison establishes price reasonableness must be rational. Multimax, Inc., et. al., B-298249.6 et al., Oct. 24, 2006, 2006 CPD ¶ 165 at 11 (sustaining challenge to price analysis where "[t]here is no indication that the agency ever reviewed the results of the formula to assure that the prices at the extreme end of the range reflected reasonable pricing; rather, the agency mechanically applied the formula and accepted the results without further analysis.").¹⁸

Here, the record reflects a wide variance among total evaluated prices and labor rates. For instance, the highest-priced offeror proposed a total price that was more than two and a half times higher than the price of the lowest-priced offeror. The proposed total evaluated prices of the awardees contain a similarly wide variance with the highest-priced awardee proposing a price that is more than double the price of the lowest-priced awardee. While this disparity does not establish that any particular offeror's prices are unreasonably high per se, it did not preclude a conclusion that the reasonableness of the higher-priced offerors' prices could not be established via comparison to their competitors' prices. In our view, the disparity should have placed DISA on notice that it needed to take a closer look at what was driving the higher prices.

As a final matter, intervenor Vencore points out that the agency ranked the 35 offerors from lowest to highest based on their total proposed prices and argues that "[t]his alone satisfies the Agency's obligation to assess reasonableness." Vencore Comments, Aug. 10, 2018, at 2 (citing AR, Tab 60, Price/Cost Evaluation Report, at 1-3). We disagree. As an initial matter, although the depth of an agency's price analysis is a matter within the sound exercise of the agency's discretion, it must be consistent with the solicitation's evaluation criteria. TransAtlantic Lines, LLC, supra, at 7. Here, the RFP stated that the agency would evaluate offerors' fully burdened fixed price labor rates using one of the techniques in FAR § 15.404. AR, Tab 5, RFP Amend. 4, at 57. Moreover, we do not find that a mere ranking of offerors' prices from lowest to highest satisfies the requirement of FAR § 15.404-1(b)(2)(i) to compare proposed prices.

¹⁸ In procurements in which offerors' differing approaches, capabilities, and unique offerings might diminish the reliability of their proposed prices for purposes of comparison, an agency may consider relying on alternative price analysis techniques. See e.g., Resource Consultants, Inc., B-290163, B-290163.2, June 7, 2002, 2002 CPD ¶ 94 at 3.

Rather, it is our view that the analysis technique set forth in FAR § 15.404-1(b)(2)(i) contemplates a comparison of prices proposed by competitors in order to determine whether they are relatively consistent and in line with one another.

Evaluation of Innovation

Technatomy also challenges DISA's evaluation of proposals under the innovation factor (factor 1). In particular, Technatomy challenges the weakness assigned to its proposal under this factor, as well as the two "notes" included in the SSEB report. Protest at 2, 15-16, 21-28. Technatomy also alleges that DISA's evaluation of certain awardees' proposals under this factor was not even-handed or consistent with the RFP. Comments at 11-14. We have reviewed the record and find no basis to sustain these grounds.

It is well-established that the evaluation of proposals is a matter within the discretion of the contracting agency. Vectrus Sys. Corp., B-412581.3 et al., Dec. 21, 2016, 2017 CPD ¶ 10 at 3. An offeror's disagreement with an agency's judgment, without more, is insufficient to establish that the agency acted unreasonably. Id. In reviewing an agency's evaluation, we will not substitute our judgment for that of the agency, but instead will examine the agency's evaluation to ensure that it was reasonable and consistent with the solicitation's evaluation criteria and with procurement statements and regulations. MicroTechnologies, LLC, B-413091, B-413091.2, Aug. 11, 2016, 2016 CPD ¶ 219 at 4-5.

Evaluation of Technatomy's Proposal

As an initial matter, we conclude that Technatomy has abandoned its challenge to the weakness assigned to its proposal under this factor.¹⁹ In its protest, Technatomy challenged the weakness, arguing that the agency applied unstated evaluation criteria. Protest at 2, 21-28. The agency in its report responded to this allegation. MOL/COS at 38-40. Technatomy's comments on the report did not address the agency's response. We therefore consider Technatomy to have abandoned this allegation, and we will not consider it further. Bauer Technologies, Inc., supra, at 3 n.4.

Regarding the SSEB's two notes, Technatomy argues that the agency's negative comments are inaccurate, reflect a fundamental mischaracterization of its proposal, and

¹⁹ The agency assigned a weakness to the proposal because it concluded that the company failed to explain how its core competencies aligned with DISA's core mission, AR, Tab 62, SSEB Report, at 183, which was required by bullet 2 of section L.4.2.3.1 (Corporate Philosophy/Culture on Innovation) of the RFP. AR, Tab 5, RFP Amend. 4, at 40 ("Describe how the company's core competency of Innovation significantly aligns with DISA's mission needs.").

unduly prejudiced its prospects for award.²⁰ Protest at 2, 25-28. In response, the agency does not address the accuracy or substance of the SSEB's notes. See MOL/COS at 40-41. Instead, DISA alleges that Technatomy was not prejudiced by the notes. Id. In this respect, DISA explains that, as a result of the source selection methodology used, the existence of the two notes under the innovation factor had no effect on the award decision. In short, Technatomy did not receive an award because of its ratings on the problem statements factor (factor 3), not because of its rating on the innovation factor (factor 1). Id. at 40.

The record confirms the agency's representations regarding lack of prejudice. The record shows that the SSEB did not rely upon the two notes in assigning a rating of acceptable to Technatomy's proposal under the innovation factor. See AR, Tab 183, SSEB Report, at 183. Moreover, because the protester's proposal received a rating of acceptable on this factor, the SSA did not include Technatomy's proposal in the first pool of proposals considered for award. Those proposals were all rated as either outstanding or good. Rather, with a rating of acceptable under the innovation factor and a rating of substantial confidence for its past performance, Technatomy would have been included in the second pool of proposals but for its merely acceptable ratings under the problem statements factor. As the agency explains, Technatomy's rating under the problems statement factor "precluded it from being considered among the most highly-rated technical proposals," and thus, Technatomy did not receive an award on this basis. MOL/COS at 41. Accordingly, based on the source selection methodology used by the agency in the record before us, the SSEB's notes had no effect on Technatomy's prospects for award.

Evaluation of Awardees' Proposals

Technatomy also challenges the agency's evaluation of certain awardees' proposals under the innovation factor. Specifically, Technatomy argues that several awardees failed either to include required information in their proposals addressing certain innovation topics or to demonstrate an acceptable level of accomplishment in those areas. Comments at 11-14. Had the awardees' proposals been properly evaluated, Technatomy claims that awards "would not have been made and Technatomy's standing for award would have been enhanced." Id. at 14. We find no merit to Technatomy's arguments.

Technatomy asserts that AASKI's proposal should have been assigned multiple weaknesses under section L.4.2.3.2 (Investment in Innovation) of the RFP for (a) its "poor to modest" investment in internal research and development, (b) its "meager"

²⁰ In the first note, the agency expressed a concern that Technatomy may not fully understand the process of innovation. AR, Tab 62, SSEB Report, at 183. In the second note, the agency expressed concern with Technatomy's financial investment in research and development. Id. The notes were included in the SSEB's report, which was reviewed by the SSAC and SSA. AR, Tab 63, SSAC Report, at 3; Tab 65, SSDD, at 3.

investment in physical laboratory and testing space, and (c) its “low” personnel retention rates. Comments at 13. Similarly, Technatomy asserts that the proposals of BAE, Deloitte, NES and Parsons should have received weaknesses relating to research and development investment and/or retention rates. Id. at 13-14.

With respect to investment in research and development, the agency argues that the RFP did not require offerors to demonstrate such investment. Supp. MOL/COS at 6. Rather, the agency asserts that the RFP requested offerors to describe their investments only “if” they indeed supported such investments.²¹ Id. For this reason, although one proposal received a strength for what the agency considered to be an “impressive” level of investment, see AR, Tab 62, SSEB Report, at 74, no proposal received a weakness relating to investment in research and development.²² In fact, the record reflects that the SSEB removed an “uncertainty” that was initially assigned to an offeror’s proposal related to that offeror’s investment in research and development. Id. at 121. In doing so, the SSEB contemporaneously noted that the assignment of the uncertainty was improper because, although there was some confusion regarding the amount of research and development investment, the proposal complied with the “intent” of the RFP’s requirement, which was “to describe if the company has supported IR&D.” Id.

We see nothing objectionable in the agency’s interpretation of the RFP or its conclusions in this regard. Although Technatomy may disagree with the agency’s decision not to assign a weakness to a proposal for an offeror’s failure to demonstrate strong investment in research and development, a protester’s disagreement with an agency’s judgment, without more, is insufficient to establish that the agency acted unreasonably. Vectrus Sys. Corp., supra, at 3.

With respect to investment in laboratory and testing space, the agency makes a somewhat similar argument.²³ Supp. MOL/COS at 6. DISA argues that, although certain proposals received strengths for their significant investments, see AR, Tab 62, SSEB Report, at 40, 105, 195, no proposal received a weakness related to such investments. Accordingly, neither AASKI, nor any other offeror, was assigned a weakness for what Technatomy characterizes as “meager” investment in laboratory and testing space.

²¹ Bullet 1 of section L.4.2.3.2 provided, in relevant part: “Describe if your company has supported Internal Research & Development (IR&D).” AR, Tab 5, RFP Amend. 4, at 41.

²² Although the SSEB included a note regarding the allegedly limited extent of Technatomy’s investment in research and development, the SSEB report makes clear that the SSEB did not consider the extent of Technatomy’s investment to be a weakness and did not rely upon this note in assigning an acceptable rating to Technatomy’s proposal under the innovation factor. AR, Tab 62, SSEB Report, at 183.

²³ Bullet 3 of section L4.2.3.2 provided, in relevant part: “Describe the company’s physical investment in Laboratory/Testing space.” AR, Tab 5, RFP Amend. 4, at 41.

Here, too, we find no basis to object to the agency's evaluation. To the extent Technatomy believes the agency should have assigned a weakness to AASKI's proposal, its complaint constitutes mere disagreement with the agency's reasonable judgment and does not provide a basis to sustain protest.

Finally, with respect to retention rates, DISA explains that the SSEB did assign weaknesses to some proposals for failure to provide retention rates.²⁴ Supp. MOL/COS at 6 (citing AR, Tab 62, SSEB Report, at 18, 106). In this respect, the agency acknowledges that the RFP required offerors to provide retention rates. The agency contends, however, that, contrary to Technatomy's claims, see Comments at 13-14, Deloitte and Parsons provided retention rates in their proposals and, therefore, the agency did not assign the proposals a weakness. Supp. MOL/COS at 6. The agency also disputes Technatomy's claim that AASKI and BAE's disclosed retention rates were so low that DISA should have given them poor or marginal ratings. Rather, the agency explains that the rates fell within an acceptable range. Id. Hence, DISA did not assign the proposals a weakness.

Here, again, we find the agency's evaluation to be reasonable. To the extent Technatomy objects to the agency's assessment regarding the acceptable range for retention rates, such an objection, without more, provides no basis to sustain the protest.

Evaluation of Problem Statements

Technatomy also contends that DISA unfairly and unequally evaluated proposals under the problem statements factor (factor 3) because it assigned strengths to two awardees, Deloitte and KeyW, for which Technatomy too should have received strengths. Comments at 15-16. Technatomy argues that, had it received similar strengths for its responses to the problem statements, its proposal would have been rated as good under either or both problems. Id. at 15. Based upon the source selection methodology used by DISA, Technatomy contends that it would have received an award. Id.

It is a fundamental principle of government procurement that agencies must treat offerors equally, which means, among other things, that they must evaluate proposals in an even-handed manner. SRA Int'l, Inc., B-408624, B-408624.2, Nov. 25, 2013, 2013 CPD ¶ 275 at 10. Where a protester alleges unequal treatment in an evaluation, we will review the record to determine whether the differences in ratings reasonably stem from differences in the proposals. See SURVICE Eng'g Co., LLC, B-414519, July 5, 2017, 2017 CPD ¶ 237 at 9; Exelis Sys. Corp., B-407111 et al., Nov. 13, 2012, 2012 CPD ¶ 340 at 20-21. Here, we find that the agency has provided reasonable explanations demonstrating that differences in the evaluators' findings were based on

²⁴ Bullet 2 of section L.4.2.3.2 stated, in relevant part: "What are the company's retention rates?" AR, Tab 5, RFP Amend. 4, at 41.

meaningful differences between the proposals. See Supp. MOL/COS at 7-11. Thus, we deny this ground.

The agency explains that the problem statements were intended to be “highly complex and technical to ‘give the Government insights into each offeror’s ability to meet DISA requirements in numerous and diverse technical areas and into each offeror’s problem solving methodologies.’” Supp. MOL/COS at 7 (quoting AR, Tab 5, RFP Amend. 4, at 44). To aid the agency in evaluating responses, the RFP instructed offerors to describe “as specifically as possible the actual methodology to be used for accomplishing [or] satisfying these requirements.” Id. In explaining its evaluation process, the agency represents that, although “many offerors used the same technical jargon, only the offerors that went into detail describing their actual methodology received strengths under the Problem Statements Factor.” Id. With respect to Technatomy’s proposal, the agency asserts that the proposal met the requirements, but did not propose solutions that were sufficiently innovative or detailed to earn strengths. Id.

Although we do not discuss the proposals of Deloitte, KeyW, or Technatomy in great detail here, we have reviewed the agency’s evaluation and conclude that it was reasonable. The record supports the agency’s contentions that, although Technatomy may have proposed processes, solutions, and approaches similar to those proposed by Deloitte and KeyW, the awardees’ proposals provided significantly more detail than Technatomy’s proposal and described several additional innovative advantages than Technatomy’s proposal. Accordingly, we conclude that the differences in the agency’s assessment of proposals here reasonably stem from differences in the proposals themselves and are not the product of unequal treatment.

Best-Value Tradeoff Analysis

Finally, Technatomy challenges the agency’s best-value tradeoff analysis and, in particular, argues that the agency failed to meaningfully consider price. Protest at 2, 32-33. Technatomy also focuses on the similarity in the non-price ratings of its proposal and that of AASKI, one of the awardees, arguing that the modest difference in technical ratings cannot reasonably justify the \$21.7 million price premium associated with AASKI’s proposal. Id. at 33. We sustain Technatomy’s challenge to the tradeoff analysis. The record shows that DISA performed a mechanical tradeoff that relied exclusively on adjectival ratings, excluded technically acceptable proposals without any consideration of the price of those proposals, and, in general, did not meaningfully consider price.

Source selection officials have considerable discretion in determining the manner and extent to which they will make use of technical and cost evaluation results, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. The SI Org., Inc., B-410496, B-410496.2, Jan. 7, 2015, 2015 CPD ¶ 29 at 14. Where, as here, a solicitation provides that technical factors are more important than price in source selection, selecting a technically superior, higher-priced

proposal is proper where the agency reasonably concludes that the price premium is justified in light of the proposal's technical superiority. The MIL Corp., B-294836, Dec. 30, 2004, 2005 CPD ¶ 29 at 8.

Any such conclusion, however, must be adequately documented and supported by a rational explanation as to why the higher-rated proposal is, in fact, superior, and why its technical superiority warrants paying a price premium. Arcadis U.S., Inc., B-412828, June 16, 2016, 2016 CPD ¶ 198 at 10; Cyberdata Techs., Inc., B-406692, Aug. 8, 2012, 2012 CPD ¶ 230 at 5. In sum, the documentation must show, not merely the tradeoff decision or business judgment made, but the rationale for that decision or judgment. FAR § 15.308; Blue Rock Structures, Inc., B-293134, Feb. 6, 2004, 2004 CPD ¶ 63 at 5.

Here, instead of documenting a reasonable basis for the tradeoffs made, the record indicates that the agency mechanically made award to the 14 offerors whose proposals exhibited, in descending order, the best combination of adjectival ratings under the non-price factors. In this regard, DISA grouped similarly rated proposals into pools and made awards to all offerors in those pools--regardless of price--until DISA reached what it referred to as a "clear break" in the proposals. AR, Tab 65, SSDD, at 16. The record reflects, however, that this "clear break" in the proposals was based exclusively on the adjectival ratings assigned to proposals.

For instance, in declining to make an award to Offeror B--the second lowest-price proposal--the SSA observed that if the proposal had achieved a rating of substantial confidence under the past performance factor, rather than a rating of satisfactory confidence, the proposal would have been "in line for an award." Id. at 14. In this respect, the SSA notes, "Offerors with similar ratings in Factors 1 and 3 were only recommended for award if they achieved the highest rating in Factor 2," which Offeror B did not. Id. at 14. The SSA reviewed Offeror B's past performance and determined that the satisfactory confidence rating was reasonable. The SSA's analysis, however, did not examine whether a proposal with a significant price advantage might be among those proposals offering the best value to the government notwithstanding a slightly lower rating in past performance.²⁵ Accordingly, without any weighing of its low price, Offeror B was not recommended for award because its proposal was not assigned the necessary combination of adjectival ratings.

²⁵ It is worth noting that, like Offeror B, Harris received a rating of satisfactory for its past performance. Unlike Offeror B, however, Harris' rating of satisfactory under this factor did not preclude it from receiving an award despite being priced \$75 million higher than Offeror B. This is because Harris' proposal was included in the first pool of proposals considered. In this pool, the record reflects that awards were made strictly based upon the ratings under the innovation factor. To the extent an offeror did not possess sufficient technical merit under another factor, the SSA simply omitted from the one-sentence award recommendation any reliance on that factor. See e.g., AR, Tab 65, SSDD, at 6, 9 (omitting reliance on factor 2, Accenture & Harris); id. at 7, 8, 9 (omitting reliance on factor 3, Vencore, BAH, Leidos).

Likewise, in considering the proposal of Offeror C--the offeror whose proposal was considered an “anomaly”--the SSA concluded that, but for its rating of marginal under the innovation factor, it could have been “in line for an award” based upon the combination of ratings its proposal received under other factors. Id. at 15. Finally, and perhaps most telling, in considering the proposals of those offerors whose combination of ratings did not place them in one of the pools, the SSA stated that the SSAC “took a final look at all the ratings for all of the Offerors to see if there were any other proposals with significant technical merit.” Id. at 14 (emphasis added). Based on their ratings, the SSA concluded they do not have sufficient technical merit to warrant an award.²⁶ Id. at 13.

We have long recognized that an agency’s source selection decision cannot be based on a mechanical comparison of the offerors’ technical scores or ratings, but must rest upon a qualitative assessment of the underlying technical differences among competing offerors. See The MIL Corp., supra, at 8 (sustaining protest where agency mechanically made award to all proposals that received “blue” ratings on the two non-price factors, and declined to make award to any proposal that did not receive a “blue” rating for the non-price factors). See also One Largo Metro LLC, et al., B-404896 et al., June 20, 2011, 2011 CPD ¶ 128 at 14-15. Here, in adopting such a mechanical approach, DISA failed to make a qualitative assessment of the technical differences among the competing proposals in order to determine whether the perceived technical superiority of those proposals receiving the best combination of ratings justified paying the price premium associated with those proposals.

For example, as Technatomy points out, Protest at 33, the agency assigned the following similar ratings to the proposals of AASKI and Technatomy:

Offeror	Factor 1	Factor 2	Factor 3		Factor 4	Factor 5
	Innovation	Past Performance	Problem 1	Problem 2	Small Business	Price
AASKI	Acceptable	Substantial	Good	Acceptable	Good	\$181,683,274
Technatomy	Acceptable	Substantial	Acceptable	Acceptable	Good	\$159,959,105

Despite this similarity in the ratings, there is no comparison of the underlying technical differences between the proposals or any explanation of why AASKI’s alleged technical

²⁶ The agency essentially concedes that Technatomy did not receive an award based solely upon the ratings it received under the non-price factors. MOL/COS at 41 (“While Technatomy had a Green/Acceptable rating for the Innovation Factor, and a Substantial Confidence rating under the Past Performance Factor, its Green/Acceptable ratings under the Problem Statements Factor precluded it from being considered among the most highly-rated technical proposals.”).

superiority merited a 14 percent price premium.²⁷ The record here shows that Technatomy's proposal was essentially excluded from consideration for award--without any consideration of its price--because its proposal did not receive the necessary combination of ratings under the non-price factors and, thus, did not fall before the "clear break" in proposals.

In a tradeoff source selection process, however, an agency cannot eliminate a technically acceptable proposal from consideration for award without taking into account the relative cost of that proposal to the government.²⁸ See e.g., Cyberdata Techs., Inc., supra, at 5 (protest sustained where technically acceptable proposal excluded from consideration for award without consideration of its price); System Eng'g Int'l, Inc., B-402754, July 20, 2010, 2010 CPD ¶ 167 at 5 (protest sustained where record shows that agency in best-value procurement performed tradeoff between two higher-rated, higher-priced quotations but did not consider the lower prices submitted by other lower-rated, technically acceptable vendors); Coastal Environments, Inc., B-401889, Dec. 18, 2009, 2009 CPD ¶ 261 at 4 (protest sustained where agency conducted a tradeoff between the two highest-rated, highest-priced proposals, but did not consider the lower prices offered by other lower-rated, technically acceptable offerors); Checchi and Co. Consulting, Inc., B-285777, Oct. 10, 2000, 2001 CPD ¶ 132 at 4 n.4 (protest sustained where agency failed to consider awardee's proposed costs at any time prior to award or

²⁷ DISA concedes that this is the relevant inquiry. MOL/COS at 49 ("For tradeoff purposes, the relevant question . . . is whether the technical advantages of AASKI's proposal, including its three strengths under the Problem Statements Factor, warranted paying a price premium over a proposal like Technatomy's with zero strengths for this factor."). Contrary to DISA's contentions, however, the SSA did not consider this question. See id. (citing AR, Tab 65, SSDD, at 16). Instead, the SSA considered only technical merit, concluding that there was a "clear break" in technical merit between the proposals of the 14 awardees and the remaining 21 offerors and that remaining proposals "do not have sufficient technical merit to justify making additional awards." AR, Tab 65, SSDD, at 16. This statement misses point. The question is not whether Technatomy's proposal possessed the same (or sufficient) technical merit to justify an additional award to the firm. Rather, the question is whether the higher-rated proposals were worth the associated price premium. Put another way, the SSA dismissed the possibility that Technatomy's lower price could or should offset the higher technical ratings assigned to the other awardees such that Technatomy's proposal offered a better value to the government.

²⁸ Although the agency might have elected to employ a "highest technically rated offerors with fair and reasonable prices" source selection methodology, see Sevatec, Inc., et al., B-413559.3 et al., Jan. 11, 2017, 2017 CPD ¶ 3 at 8-9, it did not. Indeed, the RFP here provided that the agency intended to make awards using a best-value tradeoff evaluation scheme, which does not permit the agency to eliminate a technically acceptable proposal from consideration for award without taking into account the relative cost of the proposals. See id. at 8.

to consider the proposed costs of offerors other than the awardee); Kathpal Techs., Inc.; Computer & Hi-Tech Mgmt., Inc., B-283137.3 et al., Dec. 30, 1999, 2000 CPD ¶ 6 at 9 (agency cannot eliminate a technically acceptable proposal from consideration for award without taking into account the relative cost of that proposal to the government).

When using a tradeoff source selection process, if the agency excludes acceptable offerors without considering price, the agency has failed to conduct the essence of a tradeoff, which requires the agency to consider and trade off offerors' higher (or lower) prices in relation to the perceived benefits of the proposals. Sevatec, Inc., supra, at 9; A&D Fire Protection, Inc., B-288852, Dec. 12, 2001, 2001 CPD ¶ 201 at 3. Here, we find the agency's elimination of technically acceptable proposals, including Technatomy's, without meaningful consideration of price, to be inconsistent with the agency's obligation to evaluate proposals under all of the solicitation's criteria, including price.

Finally, this brings us to the weight the agency afforded to price in the source selection process. The Competition in Contracting Act of 1984 (CICA) requires agencies to include cost or price as an evaluation factor in every solicitation, and agencies must consider cost or price to the government in evaluating competitive proposals. 10 U.S.C. § 2305(a)(3)(A)(ii); FAR § 15.304(c)(1); Lockheed Missiles & Space Co., Inc. v. Bentsen, 4 F.3d 955, 959 (Fed. Cir. 1993); Sevatec, Inc., supra, at 7; I.M. Sys. Grp., B-404583 et al., Feb. 25, 2011, 2011 CPD ¶ 64 at 7; Electronic Design, Inc., B-279662.2 et al., Aug. 31, 1998, 98-2 CPD ¶ 69 at 8. Even where, as here, price is stated to be of significantly less importance than the non-price factors, an agency must meaningfully consider cost to the government in making its selection decision. See Lockheed Missiles & Space Co., Inc. v. Bentsen, supra ("Moreover, the importance of price in a price/technical tradeoff must not be discounted to such a degree that it effectively renders the price factor meaningless."); Arcadis U.S., Inc., supra, at 10; Coastal Int'l Sec., Inc., B-411756, B-411756.2, Oct. 19, 2015, 2015 CPD ¶ 340 at 14. In this respect, an evaluation and source selection that fails to give significant consideration to cost or price cannot serve as a reasonable basis for award. I.M. Sys. Grp., supra, at 7; The MIL Corp., supra, at 9; Electronic Design, Inc., supra, at 8. In our view, the record in this case demonstrates that the agency has failed to comply with the statutory requirement that agencies give cost or price meaningful consideration in source selection.

Here, price was not considered in any meaningful way in the source selection decision. In this respect, the record shows that price had no material impact on an offeror's ability to be selected for award. Once the higher-rated proposals were identified, the agency did not perform a price/technical tradeoff; rather, award was based strictly on technical merit. In a tradeoff source selection process, however, an agency may not so minimize the impact of price to make it merely a nominal evaluation factor because the essence of the tradeoff process is an evaluation of price in relation to the perceived benefits of an offeror's proposal. Sevatec, Inc., supra, at 8 (citing FAR § 15.101-1(c)); Electronic Design, Inc., supra.

Although we acknowledge that the SSA repeatedly documented a nearly verbatim, one-sentence conclusion that, due to strengths on the non-price factors, the 14 awardees merited selection over lower-rated, lower-priced proposals, see e.g., AR, Tab 65, SSDD, at 9, we find such consideration of price to be nominal. See Cyberdata Techs., Inc., supra, at 5 n.1 (sustaining protest where agency emphasized the importance of technical superiority and concluded that selection of the lower-priced proposals “would be at the reduction of technical quality and not worth a trade-off to that extent.”). Indeed, anything less would be to ignore price completely.

In sum, we find that the agency performed a mechanical tradeoff analysis that failed to meaningfully consider price and resulted in the exclusion of technically acceptable proposals.

Competitive Prejudice

Prejudice is an essential element of a viable protest. AdvanceMed Corp., B-414373, May 25, 2017, 2017 CPD ¶ 160 at 16. Here, had the agency conducted a price evaluation consistent with the RFP and the FAR, the agency may have concluded that some awarded prices were not fair and reasonable, and eliminated those proposals on the basis of unreasonably high pricing. Likewise, had the agency meaningfully considered price in its best-value tradeoff decision, it may not have selected for award some of the higher-rated, higher-priced proposals. Where, as here, the agency did not rank the remaining offerors’ proposals, we are unable to determine with certainty whether Technatomy would have been next-in-line for award. We note, however, that there is a reasonable possibility that Technatomy’s proposal would have been selected given that its proposal was similarly rated and significantly lower priced than some of the awardees’ proposals. In these circumstances, we resolve doubts regarding competitive prejudice in favor of the protester. Id. Where, as here, the protester has shown a reasonable possibility that it was prejudiced by the agency’s actions, we will sustain its protest. Id. at 16-17.

RECOMMENDATION

For the reasons discussed above, we conclude that DISA’s price evaluation and its best-value tradeoff source selection decision were unreasonable. We further conclude that Technatomy was prejudiced by the agency’s evaluation. We recommend that DISA reevaluate offerors’ price proposals to determine whether prices are fair and reasonable and prepare a new source selection decision with appropriate consideration given to all evaluation factors. We also recommend that the agency reimburse the protester’s reasonable costs associated with filing and pursuing its protest, including attorneys’ fees. 4 C.F.R. § 21.8(d). The protester’s certified claim for costs, detailing the time

expended and costs incurred, must be submitted to the agency within 60 days after the receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained in part, denied in part, and dismissed in part.

Thomas H. Armstrong
General Counsel