



Decision

Matter of: People, Technology & Processes, LLC

File: B-417208

Date: March 21, 2019

Victor L. Buonamia for the protester.

Alexis J. Bernstein, Esq., and Isabelle P. Cutting, Esq., Department of the Air Force, for the agency.

Elizabeth Witwer, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest that agency was required to seek clarification before excluding the protester's proposal from the competitive range is denied where such communications are discretionary.
 2. Protest that the agency failed to disclose the relative weight of evaluation criteria is denied where the elements considered in determining the relevance of past experience of offerors' key personnel were not identified in the solicitation as evaluation factors or subfactors, nor did the agency treat them as such.
 3. Protest challenging the agency's past performance evaluation and its competitive range determination is dismissed where the protester abandoned its substantive challenges to the agency's evaluation.
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DECISION

People, Technology & Processes, LLC (PTP), a service-disabled veteran-owned small business (SDVOSB) of Tampa, Florida, challenges the exclusion of its proposal from the competitive range under request for proposals (RFP) No. H92222-18-R-0012, issued by the United States Special Operations Command (USSOCOM) for intelligence support for the Joint Special Operations Task Force (JSOTF). The protester challenges the evaluation of its proposal under the key personnel subfactor and past performance factor, as well as its exclusion from the competitive range.

We deny the protest in part and dismiss it in part.¹

BACKGROUND

On July 13, 2018, USSOCOM issued the solicitation as an SDVOSB set-aside, seeking intelligence support services for JSOTF.² RFP at 1, 84, 155.³ The solicitation contemplated the award of a single contract with a combination of labor-hour, fixed-price, and cost contract line item numbers (CLINs) and a period of performance of a base year followed by four option years. Id. at 2-11, 79.

The contract, known as the Intelligence Support Service--Joint (ISSJ) II contract, is a second-generation requirement to provide multi-disciplinary or full-spectrum intelligence, including human intelligence (HUMINT), signals intelligence (SIGINT), open source intelligence (OSINT), geospatial intelligence (GEOINT), and targeting intelligence. Id. at 84; MOL at 2. Pursuant to the ISSJ II contract, these services will be provided by a pool of 262 contractor personnel located both within and outside the contiguous United States. RFP at 84, 86. Personnel will be embedded with elite special operations forces units to carry out U.S. combat and other mission requirements. Id. at 84. See Contracting Officer's Statement (COS) at 2.

The solicitation notified offerors that the agency would make an award on a best-value tradeoff basis considering the following five evaluation factors: (1) qualifying criteria, (2) transition plan, (3) management plan, key personnel, and oral presentations,⁴ (4) past performance, and (5) price. Id. at 166, 169. Specifically, the solicitation provided that the agency would evaluate proposals on a pass/fail basis against the qualifying criteria. Id. at 166. Next, the agency would conduct a tradeoff analysis of proposals under the remaining evaluation factors. Id. at 168. With regard to the relative importance of the remaining factors, the solicitation indicated that the transition plan factor was more important than the management plan, key personnel, and oral

¹ No protective order was issued in this matter because PTP elected to proceed with its protest without counsel. A full version of the agency report was furnished to our Office, and a redacted version of the report was furnished to the protester. Because no protective order was issued for this protest, our discussion of some aspects of the agency's competitive range determination is necessarily general to avoid reference to proprietary or source selection sensitive information.

² USSOCOM is the contracting agency for JSOTF. Memorandum of Law (MOL) at 1.

³ All citations to the RFP are to the conformed copy included at Tab 48 of the agency report. Page references are to the Bates numbering provided by the agency.

⁴ Factor 3 included three subfactors: management plan, key personnel, and oral presentations. RFP at 166. Only the first two subfactors were evaluated prior to the establishment of the competitive range and are relevant here. Id. at 159.

presentations factor.⁵ Id. When combined, these two factors were more important than the past performance factor. Id. Finally, the non-price factors, when combined, were significantly more important than price. Id.

The RFP provided that, under the transition plan factor (factor 2) and the management plan, key personnel, and oral presentations factor (factor 3), the agency would assign proposals one of the following color/adjectival ratings: blue/outstanding, purple/good, green/acceptable, yellow/marginal, and red/unacceptable.⁶ Id. at 167. Under the past performance factor (factor 4), the RFP provided that the agency would consider the recency, relevancy, and quality of an offeror's past performance, and assign one of the following adjectival ratings: substantial confidence, satisfactory confidence, limited confidence, no confidence, and unknown confidence (neutral). Id. at 167-68.

The RFP notified offerors that the agency would calculate total evaluated prices, and would evaluate prices for reasonableness and completeness. The RFP also contemplated a price realism analysis of offerors' compensation plans to ensure compliance with Federal Acquisition Regulation (FAR) provision 52.222-46. Id. at 173-74.

The solicitation informed offerors that the agency intended to establish a competitive range and hold discussions with offerors included in that range. Id. at 169. The RFP provided that the competitive range would include "only those proposals most highly rated after initial evaluation." Id. Proposals were due on August 28, 2018.

In response to the solicitation, the agency received numerous proposals, including a proposal from PTP. COS at 10. The agency's source selection evaluation board (SSEB) conducted an initial evaluation of proposals between September and October 2018. Agency Report (AR), Tab 44, SSEB Report, at 87.

⁵ The three subfactors under factor 3 were of equal importance. RFP at 168.

⁶ The RFP indicated that the agency would assign an individual rating to each of the subfactors under factor 3, but would not assign an overall rating under factor 3. RFP at 166.

The SSEB rated PTP's proposal as follows:

Factor		PTP
Factor 1	Qualifying Criteria	Pass
Factor 2	Transition Plan	Purple/Good
Factor 3.1	Management Plan	Blue/Outstanding
Factor 3.2	Key Personnel	Yellow/Marginal
Factor 3.3	Oral Presentations ⁷	--
Factor 4	Past Performance	Limited Confidence
Factor 5	Price	\$305,928,452

AR, Tab 44, SSEB Report, at 64.

On October 26, after completing its initial evaluation, the SSEB prepared a report for the source selection authority (SSA) summarizing its evaluation of each offeror's proposal. Id. at 17-83. Additionally, the SSEB included as appendices to the report the full evaluation of each offeror's proposal. See e.g., Tab 45, SSEB Evaluation of PTP's Proposal. The SSEB report also included a recommended competitive range determination and the proposed evaluation notices that would be sent to each offeror in the event that offeror's proposal was included in the competitive range. AR, Tab 44, SSEB Report, at 84-87 (competitive range recommendation); Tab 45, SSEB Evaluation of PTP's Proposal, at 22-24 (proposed evaluation notices for PTP).

As relevant here, the SSEB recommended that PTP's proposal be excluded from the competitive range because it was not considered by the SSEB to be one of the most highly rated proposals. Tab 44, SSEB Report, at 86; COS at 11. In this regard, PTP's proposal was rated lower than those proposals included in the competitive range under three of the four non-price factors/subfactors. AR, Tab 44, SSEB Report, at 84; Tab 47, Letter to PTP; COS at 11. Additionally, its proposed price was higher than the prices of those offerors included in the competitive range. Id. The SSEB also concluded that PTP "would have to re-write a significant portion of [its] proposal [and] improve [its] past performance confidence rating to remain competitive." Tab 44, SSEB Report, at 86; Tab 47, Letter to PTP.

On November 26, after reviewing the underlying evaluation, the SSA accepted the SSEB's recommended competitive range. AR, Tab 46, Competitive Range Determination. That same day, the contracting officer notified PTP of the agency's decision to exclude its proposal from the competitive range. AR, Tab 47, Letter to PTP. PTP requested a pre-award debriefing, which the agency provided on December 17. AR, Tab 49, Debriefing. As part of the debriefing, the agency provided PTP with a redacted version of the SSEB's evaluation of PTP's proposal. Id.; Agency Resp. to

⁷ As explained above, oral presentations were not evaluated during this phase of the procurement. RFP at 159.

GAO Request for Information, Feb. 21, 2019, at 3. This protest followed on December 21.

DISCUSSION

PTP challenges the evaluation of its proposal under the key personnel subfactor and the past performance factor, as well as its exclusion from the competitive range. Our Office will review an agency's evaluation and exclusion of proposals from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. Delta Risk, LLC, B-416420, Aug. 24, 2018, 2018 CPD ¶ 305 at 9. Here, we have considered all of the arguments raised by the protester, and we find they provide no basis upon which to sustain the protest. We discuss several arguments below.⁸

Key Personnel Subfactor

PTP raises two central challenges to the agency's evaluation of its proposal under the key personnel subfactor. First, the protester alleges that the agency abused its discretion by not seeking clarification from PTP before excluding PTP's proposal from the competitive range. Protest at 4. Specifically, PTP argues that the agency should have allowed PTP to clarify how many full-time equivalents (FTEs) each of its proposed key personnel had supervised on prior efforts. Id. Second, PTP alleges that, in evaluating the past experience of proposed key personnel, the agency failed to disclose the relative weight it afforded to certain aspects of past experience. Comments at 3. We deny both allegations.

Relevant here, the solicitation required offerors to submit resumes for three key personnel positions: program manager, deputy program manager, and transition manager. RFP at 158. The record reflects that, as prescribed in the solicitation, see RFP at 159, 171, the agency evaluated the resumes in three steps. AR, Tab 44, SSEB Report, at 9-10; MOL at 6. First, the SSEB compared the resumes against the required qualifications listed in the statement of work. AR, Tab 44, SSEB Report, at 9; RFP at 87-88. Next, the SSEB compared the resumes that met the required qualifications against the desired qualifications listed in the statement of work. AR, Tab 44, SSEB Report, at 9-10; RFP at 87-88. Finally, the SSEB assessed how similar each "effort" (i.e., prior experience/position) listed in the resumes was to the ISSJ II requirement here--in essence a relevancy determination. AR, Tab 44, SSEB Report, at 10; RFP at 158-59, 171. PTP's protest involves this final step.

Regarding this step, the RFP expressly informed offerors that each effort listed in a resume submitted for a key personnel position would be evaluated for its similarity to

⁸ Although our decision does not specifically address every argument raised by PTP, we have considered all of the protester's arguments and conclude that none provides a basis upon which to sustain the protest.

the current requirement, and that the degree of similarity would be determined in accordance with RFP section L.4.2.1, Key Personnel Similarity Rating Matrix. Id. at 158-59, 171. This matrix notified offerors that the agency would evaluate the efforts listed in the resumes using the following five elements:

- (1) "FTE count of effort," which considered the total number of FTEs each key person supervised on the prior efforts;
- (2) "OCONUS⁹ aspect of effort," which considered the total number of deployed FTEs each key person supervised;
- (3) "scope of effort," which considered the extent to which the effort involved the full spectrum of intelligence disciplines, e.g., HUMINT, SIGINT, OSINT, etc.;
- (4) "effort's customer," which considered the type of customer served, i.e., special operations forces, intelligence community partners, conventional forces, or commercial customers; and
- (5) "security requirements of effort," which considered the security classification of the work. Id. at 159.

Relevant here are the first two elements, i.e., total FTEs supervised and OCONUS aspects of the effort. With respect to these two elements, the matrix set forth the following possible similarity ratings:

Similarity Rating	Total FTE Supervised	OCONUS Aspects
Very similar "VS"	300+ FTEs (Battalion Command Military Equivalent)	At least 30 FTEs deployed to both DTAAC and ODTAAC locations ¹⁰
Similar "S"	150+ FTEs (Company Command Military Equivalent)	Less than 30 FTEs but more than 14 FTEs deployed to both DTAAC and ODTAAC locations
Somewhat similar "SS"	60+ FTEs (Platoon Command Military Equivalent)	Less than 15 FTEs but more than 4 FTEs deployed to both DTAAC and ODTAAC locations
Not similar "NS"	Less than 60 FTEs	Less than 5 FTEs deployed or no FTEs deployed to ODTAAC locations

⁹ OCONUS refers to outside the continental United States. RFP at 117.

¹⁰ DTAAC refers to declared theaters of active armed conflict. RFP at 116. ODTAAC refers to outside declared theaters of active armed conflict. Id. at 117.

Id., § L.4.2.1, Key Personnel Similarity Rating Matrix (excerpt).

To facilitate the agency's review of a candidate's prior efforts, the RFP instructed offerors to "include necessary information to enable the evaluators to form a definitive conclusion concerning the Offeror's ability to perform the required services," and specifically, to include information pertaining to the candidate's "management experience on similar contracts." Id. at 152, 158.

In evaluating the resumes submitted by PTP in its proposal, the record reflects that the SSEB could not determine the total number of FTEs or OCONUS FTEs that the candidates supervised on a given effort. AR, Tab 45, SSEB's Evaluation of PTP's Proposal, at 4. Specifically, the board could not determine how many FTEs or OCONUS FTEs the program manager and deputy program manager had supervised, and how many OCONUS FTEs the transition manager supervised. Id. As a result, the SSEB rated the experience of PTP's key personnel as "not similar" under these two elements.¹¹ Id.

The SSEB assigned a significant weakness to PTP's proposal under the key personnel subfactor, concluding as follows:

The resumes for all three proposed key personnel inadequately demonstrated experience managing personnel on an effort of this magnitude. . . . The combined insufficient experience demonstrated in the [program manager's], [deputy program manager's], and [transition manager's] resumes appreciably increases the risk of unsuccessful contract performance.

Id. at 6. As a result of this significant weakness, the SSEB assigned PTP's proposal a rating of yellow/marginal under the key personnel subfactor.¹² Id. at 4.

In its protest, PTP does not dispute that its resumes lacked the required information. Indeed, our review of the record confirms that the resumes submitted by PTP did not contain information pertaining to the number of FTEs supervised.¹³ See AR, Tab 38,

¹¹ The transition manager's resume was rated as "similar" under the FTE count as the resume included sufficient information for the SSEB to assess the degree of similarity. AR, Tab 45, SSEB Evaluation of PTP's Proposal, at 4-5.

¹² A rating of yellow/marginal was defined in the solicitation as a proposal that "has not demonstrated an adequate approach and understanding of the requirements, and/or risk of unsuccessful performance is high." RFP at 167.

¹³ Although PTP acknowledges that its resumes did not contain this information, PTP claims that it is "self-evident" from the titles, years of experience, and prior work history of its key personnel that they have "extensive experience supervising FTEs." Comments at 9. In this respect, PTP argues that the agency should have been able to infer that PTP's key personnel possessed experience supervising efforts of a similar

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PTP Proposal, Vol. III, at 17-18, 21, 24-25. Rather, PTP challenges the agency's decision to exclude its proposal from the competitive range without first seeking clarification of the number of FTEs that each proposed candidate supervised. Protest at 4. PTP contends that the omission "could have been corrected very simply by asking for clarifications to include the number of FTEs each person supervised," and that such a "clarification would not have changed the submission but would have merely added this information for clarification." Id.; Comments at 9. The agency disagrees, arguing that it was under no obligation to seek clarifications under these circumstances. Moreover, the agency argues that the significant weakness in PTP's proposal could not be resolved through clarifications. See COS at 13-16; MOL at 13-21.

Section 15.306 of the FAR describes a spectrum of exchanges that may take place between a contracting agency and an offeror during negotiated procurements. Valkyrie Entr., LLC, supra, at 4. Clarifications are limited exchanges between the agency and offerors that may occur when award without discussions is contemplated. FAR § 15.306(a)(1); Mission1st Group, Inc., B-414738.9, Feb. 12, 2019, 2019 CPD ¶ 80 at 6-7. An agency may, but is not required to, engage in clarifications that give offerors an "opportunity to clarify certain aspects of proposals (e.g., the relevance of an offeror's past performance information and adverse past performance information to which the offeror has not previously had an opportunity to respond) or to resolve minor or clerical errors." FAR § 15.306(a)(2); Valkyrie Entr., LLC, supra, at 5.

By contrast, discussions--which are to occur after the establishment of the competitive range--involve the agency indicating to each offeror the "deficiencies, significant weaknesses, adverse past performance information to which the offeror has not yet had an opportunity to respond," and "other aspects of the offeror's proposal that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award." FAR § 15.306(d)(3); International Med. Corps, B-403688, Dec. 6, 2010, 2010 CPD ¶ 292 at 9.

Where, as here, the agency establishes a competitive range to conduct discussions, section 15.306(b) of the FAR provides that the agency may engage in "communications" with an offeror to facilitate the agency's understanding and evaluation of the offeror's proposal for the express purpose of exploring whether a proposal should be included in

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size and scope to the ISSJ II contract. Id. PTP's claim is without merit. It is an offeror's responsibility to submit a well-written proposal, with adequately detailed information that clearly demonstrates compliance with the solicitation and allows for meaningful review by the procuring agency. Valkyrie Entr., LLC, B-414516, June 30, 2017, 2017 CPD ¶ 212 at 4. Agencies are not required to infer information from an inadequately detailed proposal, or to supply information that the offeror elected not to provide. Id. at 5. Accordingly, the agency here was not required to guess, based upon prior job descriptions, as to the number of FTEs each key person supervised.

the competitive range. See FAR §§ 15.306(b)(2), (3); Optimization Consulting, Inc., B-407377, B-407377.2, Dec. 28, 2012, 2013 CPD ¶ 16 at 9. Such communications “shall not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal.” FAR § 15.306(b)(2); Orion Tech., Inc., B-405077, Aug. 12, 2011, 2001 CPD ¶ 159 at 5; International Med. Corps, *supra*, at 10; Battelle Mem’l Inst., B-299533, May 14, 2007, 2007 CPD ¶ 94 at 4. However, such communications may address, among other things, “ambiguities in the proposal or other concerns (*e.g.*, perceived deficiencies, weaknesses, errors, omissions, or mistakes)[.]” FAR § 15.306(b)(3)(i). Here, we need not decide whether an exchange between the agency and PTP regarding the omitted FTE information would have constituted communications under FAR § 15.306(b). Rather, we conclude that the agency was not required to seek clarifications from, or otherwise have communications with PTP, prior to the establishment of the competitive range.

The only requirement for the conduct of such communications pertains to offerors whose past performance information is the determining factor preventing their proposals from being placed within the competitive range.¹⁴ FAR § 15.306(b)(1)(i); American Gov’t Servs., Inc., B-292242, Aug. 1, 2003, 2003 CPD ¶ 163 at 6. Communications concerning other issues with proposals are discretionary. In this regard, it is well-established that, although agencies have broad discretion to decide whether to seek clarification from offerors, there is no requirement under FAR § 15.306(b) that offerors be permitted to clarify their proposals. See Optimization Consulting, Inc., *supra*, at 9; Orion Tech., Inc., *supra*; International Med. Corps, *supra*, at 9; American Gov’t Servs., Inc., *supra*.

Here, the record reflects that, although PTP’s rating of “limited confidence” under the past performance factor was a factor in its exclusion from the competitive range, past performance was not the determining factor preventing PTP’s proposal from being included in the competitive range. AR, Tab 44, SSEB Report, at 86. Accordingly, we conclude that the agency was not required to conduct communications with PTP.¹⁵

¹⁴ In such instances, the communications “shall address adverse past performance information to which an offeror has not had a prior opportunity to respond.” FAR § 15.306(b)(1)(i).

¹⁵ PTP argues in the alternative that, “[i]f the specifics of enhanced detail into each and every project or task was important to the Agency determination, then the Agency should not have limited this data to two pages.” Comments at 9. We dismiss this argument as untimely raised. To the extent PTP contends the solicitation’s page limitation was unduly restrictive of competition, its contention constitutes an untimely challenge to the terms of the solicitation, which PTP was required to raise prior to the time set for receipt of proposals. 4 C.F.R. § 21.2(a)(1); Spatial Front, Inc., B-416753, B-416753.2, Dec. 10, 2018, 2018 CPD ¶ 417 at 10 n.14. It does not appear from the record, however, that PTP found the page limitation to be unduly restrictive. For instance, its deputy program manager’s resume was one page in length and the

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Finally, PTP also contends that, when evaluating the similarity of the key personnel's prior efforts, the agency failed to disclose the relative weight of the various similarity elements. Comments at 3, 7. In this regard, PTP refers to the relative weight the SSEB afforded to the elements listed in the solicitation's Key Personnel Similarity Rating Matrix.

As explained above, the solicitation informed offerors that, as part of the agency's evaluation of resumes under the key personnel subfactor, each effort listed in the resumes would be evaluated for its similarity to the current requirement, and that the degree of similarity would be determined in accordance with the solicitation's Key Personnel Similarity Rating Matrix. RFP at 158-59, 171. The matrix set forth five similarity elements: (1) total FTEs supervised, (2) OCONUS aspects of the effort, (3) scope of the effort, (4) customer, and (5) security requirements. Id. at 159.

The record reflects that, in evaluating the similarity of the experience of proposed program managers and deputy program managers, the SSEB placed the most emphasis on the total FTEs supervised and scope of the effort elements. AR, Tab 44, SSEB Report, at 10. These two elements were more important than the OCONUS aspects of the effort element. These three elements, when combined, were more important than the customer and security requirements elements. Id.

In evaluating the similarity of the experience of proposed transition managers, the SSEB placed greater emphasis on the total FTEs supervised and OCONUS aspects of the effort elements. Id. These two elements, when combined, were more important than the remaining three elements. Id. PTP argues that the agency was required to disclose the relative importance of these elements. Comments at 3. We disagree.

Pursuant to FAR § 15.203(a)(4), agencies are required to describe the “[f]actors and significant subfactors that will be used to evaluate the proposal and their relative importance.” Here, the RFP did not identify the similarity elements as factors or subfactors, nor did the agency treat them as such. Rather, the solicitation provided that, in evaluating resumes under the key personnel subfactor, the agency would assess, among other things, the similarity of prior efforts using the five elements. Thus, the solicitation put the protester on notice as to the elements of the agency's evaluation criteria; however, such disclosure did not transform the similarity elements into subfactors. See e.g., Noble Supply & Logistics, B-411229.3 et al., June 24, 2015, 2015 CPD ¶ 232 at 10-11 (finding that notice as to the elements of the relevance evaluation criteria did not transform the elements into subfactors).

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program manager's resume was 1.5 pages in length. Only the transition manager's resume approaches the two-page limitation. See AR, Tab 38, PTP Proposal, Vol. III, at 17-18, 21, 24-25.

Accordingly, we conclude that the agency was not required to disclose the relative weight of the similarity elements. See e.g., Deloitte & Touche LLP, B-406563, B-406563.2, June 27, 2012, 2012 CPD ¶ 198 at 6 (concluding that the scope, magnitude, and complexity of prior efforts were not subfactors, but were elements of relevancy that the agency would consider in assigning an overall past performance rating); Kuhana-Spectrum, B-401270, July 20, 2009, 2010 CPD ¶ 61 at 2 n.2 (holding that relevance, quality, and quantity were not identified as subfactors, but were elements of past performance that the agency would take into account in evaluating overall past performance); Roy F. Weston, Inc., B-274945 et al., Jan. 15, 1997, 97-1 CPD ¶ 92 at 9 (finding that the criteria used to determine the relevancy of past performance are not separately weighted subfactors).

Past Performance

PTP also challenges the agency's evaluation of its past performance. Protest at 5. Specifically, in its initial protest, PTP alleges that the agency did not correctly evaluate the "interplay" between small prime contractors and large subcontractors. Id. PTP also alleges that the "not relevant" ratings that some of its past performance efforts received should have been rated as "neutral." Id. Finally, PTP also argues that "[i]t defies logic to understand how any small business could be determined to have relevant past performance of the size and scope of 300 to 400 FTEs and still be a small business under the size standards." Id.

We dismiss these arguments. We note that the agency in its report responded to PTP's arguments. COS at 16-22; MOL at 21-28. In its comments on the report, PTP failed to address the agency's response. Where, as here, an agency provides a detailed response to a protester's assertions and the protester either does not respond to the agency's position or provides a response that merely references or restates the original protest allegation without substantively rebutting the agency's position, we deem the initially raised arguments abandoned. Jacobs Tech., Inc., B-413389, B-413389.2, Oct. 18, 2016, 2016 CPD ¶ 312 at 5-6. We therefore conclude that these arguments have been abandoned, and do not consider them further.

In its comments on the agency report, PTP raises several supplemental protest grounds pertaining to the agency's evaluation of past performance. First, PTP contends that the agency used unstated evaluation criteria to evaluate the relevancy of offerors' past performance efforts and that the agency also failed to disclose the relative weight of the relevancy criteria. Comments at 2-3, 7. Even assuming we agreed with the protester, i.e., that the agency was obligated (and failed) to disclose the criteria and the relative weight of such criteria, we conclude that the protester's argument is untimely raised.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. Solers, Inc., B-414672.3, B-414672.8, Oct. 9, 2018, 2018 CPD ¶ 350 at 18. Pursuant to these rules, a protest based upon other than alleged improprieties in a solicitation must be filed not later than 10 calendar days after the protester knew, or should have known, of the basis for the protest, whichever is earlier. 4 C.F.R. §21.2(a)(2). Where a

protester initially files a timely protest, and later supplements it with new grounds of protest, the later-raised allegations must independently satisfy our timeliness requirements, since our Regulations do not contemplate the piecemeal presentation or development of protest issues.

Here, PTP knew, or should have known, of this basis of protest on December 17, 2018, when it received its debriefing. As part of the debriefing, the agency furnished PTP with a redacted copy of the SSEB report. AR, Tab 49, Debriefing; Agency Resp. to GAO Request for Information, Feb. 21, 2019, at 3. The redacted SSEB report disclosed both the criteria the agency considered in evaluating relevancy and their relative weight. See AR, Tab 49, Debriefing, at 8-9. Accordingly, PTP was aware of this protest ground as of December 17, 2018. Because PTP waited until its comments, filed on January 30, 2019, we dismiss it as untimely.¹⁶ Solers, Inc., supra, at 19.

Next, PTP alleges that, even using the agency's own criteria, the agency improperly applied the relevancy ratings in evaluating PTP's submission. Comments at 4-5. In this respect, PTP argues that the agency should have rated four of its past performance efforts as "somewhat relevant" instead of "not relevant" under one of the relevancy criteria, i.e., total annual dollar value. Comments at 5. PTP claims that the total contract value of these four prior efforts fell between \$5-10 million and, therefore, merited a higher rating. The record reflects, however, that a rating of "somewhat relevant" was defined as an effort whose "total annual dollar value," not total contract dollar value, fell between \$5-10 million. AR, Tab 44, SSEB Report, at 9 (emphasis added). Although PTP is correct that the total contract value of its prior efforts fell between \$5-10 million, the total annual value of the efforts fell below the \$5 million threshold and, thus, did not merit the higher relevancy rating. As a result, we deny this ground.

¹⁶ For this same reason, we dismiss another supplemental protest ground raised by PTP in its comments, namely that the agency should have rated its past performance efforts as "very relevant" under one of the relevancy criteria, i.e., nature of work, because its past efforts allegedly "dealt with intelligence activities across all intelligence disciplines, HUMINT, SIGINT, COMINT, etc." Comments at 5-6. The SSEB report provided to PTP as part of its debriefing informed PTP that its prior efforts were not rated as "not relevant" under the nature of work criteria and provided the basis for the SSEB's conclusion, i.e., that the submitted efforts "demonstrated the vendor's ability to only provide a few of the disciplines listed in the [statement of work.]" See e.g., AR, Tab 49, Debriefing, at 8 (emphasis added). If PTP believed that its past performance efforts warranted a higher relevancy rating, it should have identified this ground in its initial protest. Because PTP waited until its comments to raise this ground, we dismiss it as untimely.

Competitive Range Determination

Finally, in its initial protest, PTP challenged the agency's competitive range determination, arguing that the agency did not evaluate its proposal in accordance with the RFP's best-value tradeoff scheme. Protest at 5. In this regard, PTP pointed out that it had high ratings in two of the most important evaluation factors. Id. PTP contended that the agency afforded too much weight to its past performance rating, and not enough weight to its high transition plan rating and its management plan rating. Id.

In its report, the agency responded to PTP's arguments. COS at 22-23; MOL at 29-30. In its comments on the report, PTP failed to address the agency's response. Accordingly, we deem the initially raised argument abandoned and, thus, we dismiss this ground.

The protest is denied in part and dismissed in part.

Thomas H. Armstrong
General Counsel