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Decision

Matter of: Jefferson Consulting Group, LLC

File: B-417555; B-417555.2

Date: August 16, 2019

Stuart W. Turner, Esq., Kristen E. Ittig, Esq., and Michael E. Samuels, Esq., Arnold & Porter Kaye Scholer, LLP, for the protester.
John E. Jensen, Esq., and Robert C. Starling, Esq., Pillsbury Winthrop Shaw Pittman LLP, for the intervenor.
Rina E. Martinez, Esq., and Hillary J. Freund, Esq., Department of Homeland Security, for the agency.
Glenn G. Wolcott, Esq., John Sorrenti, Esq., and Christina Sklarew, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Agency reasonably evaluated the protester's and awardee's corporate experience as only somewhat relevant, where neither contractor's experience was comparable to the size of the protested procurement.
 2. Agency reasonably assigned a weakness/risk to protester's proposed staffing for proposing only senior-level labor categories, where solicitation provided that the agency would consider the efficiency of a contractor's proposed approach.
 3. Agency reasonably concluded that awardee's proposed staffing levels, which were lower than the level reflected in the independent government cost estimate, did not present risk where the agency determined that the awardee's approach reflected innovations and efficiencies.
 4. Agency was not required, nor permitted, to perform a price realism evaluation where the solicitation did not provide for that assessment.
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DECISION

Jefferson Consulting Group, LLC, of Washington, D.C., protests the establishment of a blanket purchase agreement (BPA) and award of an initial task order (TO 0001) by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), to Garud Technology Services (GTS), pursuant to request for quotations

(RFQ) No. 70FA2019Q00000003, for acquisition management support services. Jefferson protests various aspects of the agency's evaluation and source selection decision.

We deny the protest.

BACKGROUND

On December 10, 2018, pursuant to Federal Acquisition Regulation (FAR) subpart 8.4, the agency issued RFQ No. 70FA2019Q00000003 to contractors holding General Services Administration (GSA) professional services schedule contracts with special item number (SIN) 874-6 for acquisition management services, seeking a contractor to "support and enhance Mitigation and Insurance procurement related activities." Agency Report (AR), Tab D, RFQ attach. A, at 50. The single-award BPA and TO 0001 are intended to provide acquisition management support services for FEMA's Federal Insurance Mitigation Administration (FIMA)¹ during a 12-month base period and four 12-month option periods. The solicitation advised contractors that the BPA had an estimated total value of \$70 million. RFQ at 2.

The RFQ provided that the BPA and TO 0001 would be awarded concurrently, and identified various "performance objectives" for both the BPA and TO 0001.² As part of their quotations, contractors were directed to provide a performance work statement (PWS) for TO 0001 that addressed the contractor's approach to meeting the stated TO 0001 objectives.³ The RFQ provided for award on the basis of a best-value tradeoff,

¹ Within FEMA, FIMA is responsible for "creating safer communities by reducing loss of life and property, enabling individuals to recover more rapidly from floods and other disasters, and reducing the financial impact of disasters on the Nation." RFQ, attach. A, BPA Statement of Objectives (SOO), at 50.

² The BPA objectives were: (1) acquisition investment review and approval support; (2) acquisition management strategic planning support; (3) acquisition management pre/post award contract support; (4) performance based support services for contracting officer representatives; and (5) technical evaluation team facilitation. *Id.* at 54-59. Of relevance to this protest, with regard to objective No. 1, acquisition investment review and approval support, the solicitation stated that the contractor must support acquisitions "inclusive of . . . Acquisition Review Board (ARB) approval . . . in accordance with DHS Directive 102-01-001." RFQ at 54. The referenced DHS Directive identifies procedures pursuant to which an ARB determines whether a proposed acquisition can move forward through the various phases of an acquisition cycle.

³ TO 0001 sought acquisition support for FIMA's Risk Management Division (RMD). RFQ, attach C, SOO for TO 0001, at 73. The TO 0001 objectives were (1) RMD acquisition assessment and planning support; (2) annual procurement meeting facilitation/implementation; (3) RMD portfolio management/operations support;

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and established the following evaluation factors, listed in descending order of importance: (1) corporate experience; (2) PWS for TO 0001; (3) past performance; (4) key personnel; (5) BPA management plan/technical approach; and (6) price.⁴ RFQ at 46-49.

On or before the February 28, 2019 closing date, quotations were submitted by five contractors, including Jefferson and GTS.⁵ Thereafter, the quotations were evaluated, and the agency assigned adjectival ratings under each evaluation factor that reflected the quotation’s evaluated strengths/benefits and/or weaknesses/risks.⁶ GTS’s and Jefferson’s quotations were evaluated as follows:

	GTS	Jefferson
Corp. Experience	Some Relevance	Some Relevance
TO 0001 PWS	Excellent	Good
Past Performance	High Confidence	High Confidence
Key Personnel	Excellent	Excellent
BPA Mgmt./Tech. Approach	Excellent	Excellent
Total Evaluated Price	\$2,277,287	\$3,827,624

AR, Tab Y, Business Clearance Memo (BCM)/Source Selection Decision (SSD) at 13, 17.

Thereafter, the agency selected GTS for award on the basis that it had “submitted a superior technical quotation compared to all other [contractors] with the most relevant experience and the lowest evaluated price.” *Id.* at 19. This protest followed.

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(4) RMD acquisition management support; and (5) risk MAP (mapping, assessment, and planning) regional production/technical services support. *Id.* at 76-81.

⁴ The solicitation required submission of fixed-priced quotations for TO 0001, based on discounted labor rates from the contractors’ GSA schedule contracts, and provided that the evaluated price for source selection would be “the total quoted amount for Task Order 0001 (inclusive of the base period and option).” RFQ at 5, 9.

⁵ The quotations submitted by the other contractors are not relevant to this protest and are not further discussed.

⁶ The terms “strength” and “benefit” were used interchangeably, as were the terms “weakness” and “risk.” Contracting Officer’s Statement (COS), June 10, 2019, at 14-15.

DISCUSSION

Jefferson protests various aspects of the agency's source selection process, including challenges to the evaluation under the corporate experience, TO 0001 PWS, and price evaluation factors. As discussed below, we find no basis to sustain the protest.⁷

Evaluation of Corporate Experience

With regard to the most important evaluation factor, corporate experience, contractors were directed to identify up to three contracts/projects, performed for prior clients, that the contractor considered relevant to the requirements at issue.⁸ The RFQ provided that a contractor's corporate experience would be evaluated "based on the anticipated benefits" flowing from its experience, and noted that the evaluation would take into consideration, among other things, whether the experience was comparable in "size, scope and complexity" to the BPA requirements. The RFQ further provided that corporate experience would be evaluated "as it relates to each of the BPA/SOO Objectives," and added that "[t]he experience of the Prime [Contractor] is significantly more important than that of any proposed Teaming Partner/Subcontractor." RFQ at 47.

As noted above, the agency assigned ratings of "some relevance" to both contractors' corporate experience.⁹ In evaluating Jefferson's experience, the agency assigned two weaknesses/risks. First, the agency stated that: "Jefferson failed to demonstrate comparable experience in terms of size (dollar value)."¹⁰ AR, Tab X, TET Report, at 50.

⁷ In its various protest submissions, Jefferson has raised arguments that are in addition to, or variations of, those specifically discussed below, including allegations of unbalanced pricing and assertions that the agency should have evaluated certain aspects of the contractors' quotations under multiple evaluation factors. We have considered all of Jefferson's arguments and find no basis to sustain its protest.

⁸ The solicitation defined experience as "contracts, projects, jobs, and endeavors the prime Offeror and/or proposed teaming partner/subcontractor have completed or [are] in the process of completing." RFQ at 38.

⁹ In evaluating quotations under the corporate experience factor, the agency assigned ratings of high relevance, some relevance, or low relevance. AR, Tab X, Technical Evaluation Team (TET) Report, at 6. As pertinent to this protest, a rating of high relevance reflected experience that was beneficial for all BPA objectives and comparable to the BPA requirements in terms of size, scope, and complexity; a rating of some relevance reflected experience that "may not cover all objectives" and "may not be of comparable size, scope and/or complexity." *Id.*; *see* AR, Tab I, Evaluation Methodology, at 12-13.

¹⁰ As noted above, the solicitation stated that the estimated value of this procurement is \$70 million. RFQ at 2. The agency states that the highest dollar value of Jefferson's prior contracts was \$47.86 million. COS, June 10, 2019, at 18. In similarly rating GTS's experience as reflecting "some relevance," the agency also assessed a weakness/risk

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Second, the agency stated that Jefferson's quotation "failed to demonstrate experience under Objective 1 for acquisition investment review comparable to DHS Directive 102-001-01," elaborating that the quotation failed to "demonstrate relevant experience supporting Acquisition Review Board (ARB) approval."¹¹ AR, Tab X, TET Report, at 50; Protest, exh. F, Brief Explanation, at 6.

Jefferson asserts that its quotation "should have been assigned" a rating of high relevance, maintaining that there was "no basis" for the assessment of either weakness/risk.¹² Protest at 15. With regard to the agency's assessment of a weakness/risk for failing to demonstrate experience supporting ARBs, Jefferson asserts that its quotation "discusses [Jefferson's] experience with ARBs," referring to a statement in its quotation under the heading "Acquisition Investment Review and Approval Support" that described Jefferson's prior experience as "includ[ing]. . . preparing for board meetings." Id. at 20; AR, Tab L, Jefferson Technical Quotation, at 6. Finally, Jefferson complains that the agency's evaluation was unequal, asserting that GTS's quotation should have received a similar weakness/risk for ARB support.

In responding to Jefferson's complaints, the agency first points out that a rating of high relevance under the corporate experience evaluation factor was only assigned where a contractor's quotation demonstrated experience that was beneficial for all BPA objectives, and comparable in terms of size, scope, and complexity. See AR, Tab I, Evaluation Methodology, at 12. The agency further notes that a rating of some relevance was assigned where a quotation failed to, among other things, demonstrate experience of comparable size, scope and/or complexity. Id. Accordingly, the agency maintains that since it was clear neither Jefferson nor GTS demonstrated comparable experience in terms of size, ratings of some relevance for both contractors were appropriate.

With regard to Jefferson's complaints regarding the weakness/risk the agency assigned for failure to demonstrate experience supporting ARBs, the agency notes that the solicitation clearly sought demonstration of such support, and that the vague reference in Jefferson's quotation regarding its prior experience in "preparing for board meetings"

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on the basis that GTS "failed to demonstrate comparable experience in terms of size," noting that, while GTS's experience included a contract valued at \$62.96 million, that contract had been performed by a GTS subcontractor. Id. at 25.

¹¹ As noted above, the solicitation sought corporate experience supporting ARBs "in accordance with DHS Directive 102-001-001." RFQ at 54.

¹² Jefferson subsequently withdrew its challenge to the agency's assessment of a weakness/risk for failing to demonstrate comparable experience in terms of size but, nonetheless, maintains its assertion that it should have received a rating of high relevance under the corporate experience factor. Protester's Comments/Supp. Protest, June 20, 2019, at 3; see Protest at 20.

was inadequate to demonstrate the experience sought. Specifically, the agency notes that Jefferson's quotation was devoid of any explanation comparing its prior experience to the requirements of DHS Directive 102-001-001, which the solicitation specifically referenced as a benchmark, and the agency further notes that it was "neither clear nor apparent what type of board meeting Jefferson's quotation [was] referring to." Supp. AR, June 28, 2019, at 13-15. In contrast, the agency notes that GTS's quotation provided a more detailed description regarding its prior experience with ARBs, specifically referencing the DHS Directive.¹³ Id.; see AR, Tab T, GTS Technical Quotation, at 1-4.

Where a protester challenges an agency's evaluation of experience or past performance, we will review the evaluation to determine if it was reasonable and consistent with the solicitation's evaluation criteria and procurement statutes and regulations, and to ensure that it is adequately documented. See MFM Lamey Grp., LLC, B-402377, Mar. 25, 2010, 2010 CPD ¶ 81 at 10; Falcon Envtl. Servs., Inc., B-402670, B-402670.2, July 6, 2010, 2010 CPD ¶ 160 at 7. An agency's evaluation of experience and past performance is, by its nature, subjective, see Glenn Def. Marine-Asia PTE, Ltd., B-402687.6, B-402687.7, Oct. 13, 2011, 2012 CPD ¶ 3 at 7, and that evaluation, including the agency's assessments with regard to relevance, scope, and significance, are matters of discretion which we will not disturb absent a clear demonstration that the assessments are unreasonable or inconsistent with the solicitation criteria. SIMMEC Training Sols., B-406819, Aug. 20, 2012, 2012 CPD ¶ 238 at 4.

Here, based on the record presented, we find nothing unreasonable or unequal with regard to the agency's evaluation under the corporate experience factor. First, the record supports the agency's determination that neither contractor demonstrated experience that was comparable in size to the efforts being solicited here, and that a rating of high relevance was only assigned where the contractor's quotation demonstrated experience that was, among other things, comparable in size to the procurement at issue. Further, we have reviewed the contractors' respective quotations, along with the evaluation record, and find nothing unreasonable or unequal in the agency's assessments of the contractors' experience supporting ARBs, including the agency's determination that Jefferson's reference to "preparing for board meetings" was inadequate to demonstrate the experience sought, while GTS's quotation that provided greater detail was adequate. Accordingly, Jefferson's protest challenging the agency's evaluation under the corporate experience evaluation factor is denied.

¹³ In its protest, Jefferson also argued that the agency was required to consider information in the resumes of its key personnel in evaluating Jefferson's corporate experience. The agency fully responded to this allegation and, in its subsequent submissions, Jefferson did not address this matter in any way. Accordingly, we view that argument to have been abandoned. See, e.g., Elevator Service, Inc., B-416258.2, B-416258.3, Sept. 13, 2018, 2018 CPD ¶ 319 at 3 n.3.

Evaluation of PWS for TO 0001

With regard to TO 0001, the solicitation directed each contractor to submit a proposed PWS that addressed “the approach, methodologies, tools and resources the [contractor] will use to achieve the objectives identified in the Statement of Objectives (SOO) for Task Order 0001.” RFQ at 40. The solicitation further directed that the proposed PWS “shall include resource information (such as proposed labor categories/labor mix and number of hours per labor category) for each Task Order SOO Objective,” adding that this information would be used “to assess the [contractor’s] understanding of the objectives and the ability to complete the job with sufficient resources.” Id. Finally, of relevance to this protest, the solicitation provided that, in evaluating quotations, the agency would consider the adequacy of the proposed resource information, and would assess the contractor’s understanding of the requirements, its demonstrated innovation, and the “effectiveness and efficiency” of the contractor’s proposed solution. Id. at 48.

In evaluating Jefferson’s quotation as good,¹⁴ the agency assigned a weakness/risk associated with Jefferson’s proposed staffing, noting that “[Jefferson’s] proposed labor categories are limited to Top Level Senior Positions”; adding that “[t]his labor mix does not reflect a range of labor categories with varying degrees of experience”; and concluding that “the proposed level of effort does not reflect efficient staffing.” AR, Tab X, TET Report, at 50. Accordingly, the agency concluded that Jefferson’s quotation warranted a rating of good, but not excellent, under this evaluation factor. Id.

Jefferson protests that it should have received an excellent rating, asserting that the agency’s assessment of a weakness/risk for its proposed staffing was unreasonable and/or based on an unstated evaluation factor, maintaining “[t]here is no risk associated with a well-qualified workforce,” and complaining that the RFQ did not advise contractors that the agency sought personnel with varying degrees of experience. Protest at 23. Accordingly, Jefferson maintains that its quotation under this evaluation factor “can only be considered ‘Excellent.’” Id.

The agency responds that the solicitation specifically advised each contractor that its proposed PWS would be evaluated with regard to, among other things, the “effectiveness and efficiency” of its proposed solution. See RFQ at 48. Accordingly, the agency maintains that its consideration of “the proper fit between the work and the

¹⁴ In evaluating quotations under this second most-important evaluation factor, the agency assigned ratings of excellent, good, satisfactory, or unacceptable. AR, Tab X, TET Report, at 6-7. A rating of excellent was assigned where the quotation “demonstrated an excellent understanding of the requirements” and reflected an approach that “will significantly benefit the Government,” and “risk of unsuccessful performance is very low.” Id. at 6. A rating of good was assigned where the quotation “demonstrated a good understanding of the requirements,” the quotation reflected “strength(s) that will benefit the Government,” and “risk of unsuccessful performance is low.” Id.

proposed categories of personnel” was reasonable and entirely consistent with the terms of the solicitation, and that the agency was reasonably concerned that Jefferson “was proposing senior labor categories unnecessarily.” AR, Memorandum of Law, June 10, 2019, at 17. In this context, the agency notes that “not all objectives in the Task Order’s SOO were complex enough to require the use of senior management level labor categories,” and references particular portions of Jefferson’s quotation that appear to contemplate excessive and/or overqualified staffing. Id. In short, the agency maintains that it properly evaluated Jefferson’s quotation as “good,” but not “excellent,” noting that, to be rated “excellent,” a quotation was required to demonstrate “an excellent understanding of the requirements with an approach that will significantly benefit the Government.” AR, Contracting Officer’s Statement, June 10, 2019, at 18; see AR Tab X, TET Report, at 6.

Where, as here, a procurement is conducted pursuant to FAR subpart 8.4, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency; rather, we will review the record to ensure that the agency’s evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement laws and regulations. See, e.g., VariQ Corp., B-409114 et al., Jan. 27, 2014, 2014 CPD ¶ 58 at 8. Further, a protester’s disagreement with a procuring agency’s evaluation judgments, without more, does not establish that the evaluation was unreasonable. Robbins-Gioia, LLC, B-402199 et al., Feb. 3, 2010, 2010 CPD ¶ 67 at 6.

Based on our review of the record, we find no basis to question the reasonableness of the agency’s assessment of a weakness/risk regarding Jefferson’s proposed labor mix; the consistency of that assessment with the terms of the solicitation; or the agency’s assignment of a good rating to Jefferson’s quotation under this evaluation factor. As noted above, the solicitation expressly advised contractors that the agency would evaluate the efficiency of each proposed solution. In this regard, Jefferson, itself, acknowledges that the term “efficient” means “achieving maximum productivity with minimum wasted effort or expense.” Protest at 24. In our view, the agency was reasonably concerned that Jefferson’s staffing plan created a significant potential for “wasted effort or expense,” and its evaluation properly reflected that concern. Accordingly, based on that concern, the agency reasonably assigned a rating of good, but not excellent, to Jefferson’s quotation under this evaluation factor. Jefferson’s protest to the contrary is denied.

In its initial protest, Jefferson also challenged the agency’s evaluation of GTS’s quotation under the TO 0001 PWS evaluation factor, asserting that the agency failed to properly evaluate the adequacy of GTS’s proposed staffing. In this regard, the record establishes that Jefferson and GTS each proposed a total level of effort below that reflected in the agency’s independent government cost estimate (IGCE).¹⁵ In evaluating

¹⁵ The IGCE was based on a total of 33,839 labor hours. AR, Tab X, TET Report, at 50. Jefferson’s quotation was based on a total of 29,953 hours. Id. The evaluation of GTS’s quotation reflected a total of 24,668 hours. Id. at 40.

GTS's quotation, the agency first noted that GTS's quotation provided a breakdown of its proposed labor hours, per labor category, for each TO 0001 objective. The agency further identified multiple strengths/benefits in GTS's proposed approach that the agency viewed as constituting innovations and efficiencies. The agency concluded that although GTS's proposed level of effort was lower than the level on which the IGCE was based, GTS's approach did not create risk due to the various innovations and efficiencies contained in its approach to achieving the stated objectives. We discuss this conclusion in further detail below.

Following receipt of the agency report, Jefferson filed a supplemental protest asserting that, in light of GTS's lower staffing level, the agency's contemporaneous record inadequately documented its determinations that the level of staffing was adequate¹⁶ and/or that GTS's staffing reflected innovation and efficiencies. Supp. Protest, June 20, 2019, at 6. In this regard, Jefferson asserts that the agency was required to "quantify the efficiencies," and that the agency's documentation was required to reflect a separate comparison of the levels of effort proposed for each TO objective with the solicitation's requirements for that particular objective. Id. at 7.

In response, the agency references its detailed contemporaneous evaluation record. See AR, Tab X, TET Report, at 1-58; Tab Y, Business Clearance Memorandum (BCM)/Source Selection Decision Document (SSDD), at 1-19. More specifically, the agency reiterates that GTS's quotation identified the number of hours proposed, by labor category, for each TO objective, and that the TET Report expressly referred to the total level of effort that GTS proposed, stating:

In summary, GTS demonstrated a comprehensive and excellent understanding of the requirements for Task Order 0001 and provided an approach that significantly meets performance requirements while reducing performance risks. The collective benefit of GTS's proposed PWS appreciably increases the probability of successful task order performance. Risk of unsuccessful performance is very low considering the proposed [redacted]. No performance risks were identified.

GTS provides a breakdown of proposed hours (level of effort) for each Task Order Objective as required by Section E.1 of the RFQ. [GTS] proposed 24,668 hours which is lower than the hours set forth in the Task Order 0001 IGCE of 33,839 hours. However, this is not a performance risk based on [GTS's] proposed PWS which demonstrated innovation and efficiency in the areas of: 1) assessment & planning support including [redacted] (Task Order Objectives 4.1 and 4.2), [2]) acquisition operations support (Task Order Objective 4.4) and [3]) RMD's [FIMA's Risk Management Division] portfolio

¹⁶ With regard to GTS's labor mix, Jefferson acknowledges that "GTS proposed a similar mix of junior and senior employees as the Agency used in its Independent Government Cost Estimate." Protester's Supp. Comments, July 8, 2019, at 4.

management support (Task Order Objectives 4.3 and 4.5). This reflects: 1) use of industry best practices to improve RMD's portfolio management, 2) leveraging of [redacted] which enhances performance under all task order objectives, 3) use of [redacted] which will positively impact all task order objectives, 4) proposed four Innovation Focus Areas which will positively impact all task order objectives, and 5) identifying performance risk through use of a [redacted] and Mitigation Strategies.

AR, Tab X, TET Report, at 40.

The agency also notes that the TET Report provided further descriptions of the innovations/efficiencies identified above, devoting several sentences to describing each one along with the benefits anticipated. See id. at 41.

Finally, the agency notes that the BCM/SSDD, prepared by the contracting officer/source selection authority (SSA) stated "I concur with the TET's finding based on my own assessment of the quotations," and documented in detail the basis for her award decision. AR, Tab Y, BCM/SSDD, at 12. Specifically, with regard to the evaluation of GTS's quotation under the TO 0001 PWS evaluation factor, the BCM/SSDD stated:

GTS was the only [contractor] to receive four significant strengths for their proposed PWS for Task Order 0001. No other [contractor] received more than one significant strength. In addition, GTS' innovations went beyond what was anticipated . . . and were superior to all other [contractors].

For example, GTS identified initial risks through [redacted] (Exhibit 1.B-4) and sound Potential Performance Risks and Mitigation Strategies in their proposed PWS. GTS' approach demonstrates a comprehensive understanding of risk management but also of Task Order Objective 1. The benefit of this type of [redacted] analysis coupled with the mitigation strategies will greatly increase the effectiveness of RMD acquisition management.

In addition, GTS' approach/methodology demonstrates industry best practice for improving RMD portfolio and acquisition programs through [redacted] to address objectives with an [redacted] concept that builds continuous measurement into delivery through data driven analysis which enhances performance for all task order objectives. This approach seamlessly connects the solution development process with the solution concept and the monitoring and refinement of the solution during task order execution. The benefit is that this approach greatly mitigates significant risk for both scope creep and distractions that do not support objective achievement.

GTS also proposed Exhibit 1.B-3, Task Order 0001 [redacted] which demonstrated an exceptional understanding of all PWS Objectives. GTS's solution provides a holistic and repeatable methodology and toolset for

improving RMD portfolio and acquisition programs by driving alignment at the FIMA enterprise (Strategic), RMD portfolio (Operational), and RMD acquisition program (Tactical) levels. The benefit to this approach and schedule provides clear direction, visibility, and accountability and will effectively ensure meeting Task Order 0001 objectives in a timely manner. GTS' approach will significantly benefit the Government and risk of unsuccessful performance is very low.

AR, Tab Y, BCM/SSDD, at 15-16.

Accordingly, the agency maintains that it reasonably considered and evaluated GTS's staffing levels, and properly documented its determinations consistent with the requirements of FAR subpart 8.4 and the terms of the solicitation.¹⁷

As discussed above, our Office will not reevaluate proposals, nor substitute our judgment for that of the agency. See, e.g., VariQ Corp., supra. Moreover, in a procurement conducted pursuant to FAR subpart 8.4, the agency's documentation may be limited, provided it is adequate to establish the reasonableness of the agency's judgments. Id.

Based on our review of the record here, we find no basis to question the reasonableness of the agency's evaluation with regard to GTS's proposed staffing levels, or the adequacy of the agency's documentation. As noted above, the evaluation record discusses specific innovations/efficiencies in GTS's quotation that the agency viewed as beneficial, and specifically identified the particular task order objective or objectives that it viewed as beneficially impacted by the particular innovations/efficiencies. Among other things, the evaluation record specifically discusses GTS's proposed use of [redacted] demonstrating exceptional understanding of the TO 0001 objectives, and four specific areas targeted for innovation. While Jefferson may disagree with the agency's judgments, it has failed to establish that those judgments were unreasonable, or that the agency's documentation is inadequate to comply with the applicable requirements. Jefferson's protest challenging the agency's evaluation of GTS's proposed staffing is denied.

¹⁷ In response to Jefferson's protest, the agency also provided a supplemental statement from the TET Chair that elaborates on GTS's innovations and efficiencies. AR, Tab AQ, Supp. Statement of TET Chair, June 28, 2019. While Jefferson requests that we give the supplemental statement "no weight," Protester Comments on Supp. AR, July 8, 2019, at 7, we reject that request on the basis that the document merely provides additional details regarding the agency's contemporaneous conclusions, which are consistent with those conclusions. See, e.g., Ruchman and Assocs., Inc., B-415400 et al., Jan. 2, 2018, 2018 CPD ¶ 1 at 6. In any event, we view the contemporaneous record, discussed above, as more than adequate to comply with the applicable requirements regarding documentation in a FAR subpart 8.4 procurement.

Evaluation of GTS's Price

Finally, Jefferson asserts that, due to GTS's "cut-rate price," the agency was required to perform a "compensation realism evaluation" in order to "assess the realism of GTS's proposed prices," and maintains that such an assessment would have revealed GTS's "disqualifying, unrealistic rates." Protest at 3, 29, 34-35. In this regard, Jefferson refers to the provisions of FAR clause 52.222-46, Professional Compensation Evaluation, which it describes as including a "straight compensation realism requirement," asserting that this clause was "incorporated into the procurement." Id. at 3, 33-38.

The agency responds that the solicitation for this fixed-price procurement did not contain a provision that required, or permitted, the agency to perform a price realism analysis, further pointing out that the solicitation did not include FAR clause 52.222-46. In this regard, the agency notes that, consistent with the absence of this FAR clause, the solicitation did not require the contractors to submit compensation plans and, accordingly, the contractors' quotations reflected only fully-burdened labor rates which do not provide a valid basis for a realism assessment. AR, Memorandum of Law, June 10, 2019, at 31-34; see Arch Systems, LLC; KEN Consulting, Inc., B-415262, B-415262.2, Dec. 12, 2017, 2017 CPD ¶ 379 at 7-9 (rejecting assertion that agency was required to perform a compensation evaluation where solicitation did not require offerors to submit unburdened labor rates). Finally, the agency responds that, to the extent Jefferson's protest is challenging the solicitation's lack of provisions requiring or permitting it to perform the type of evaluation Jefferson asserts was necessary, the protest is untimely. We agree.

Where, as here, a solicitation contemplates award of a fixed-price contract, an agency is only required to determine whether the offered prices are fair and reasonable, and an agency's concern in making a price reasonableness determination focuses on whether the offered prices are too high, rather than too low. See, e.g., Vital Link, Inc., B-405123, Aug. 26, 2011, 2011 CPD ¶ 233 at 6. While an agency may choose to conduct a price realism analysis in awarding a fixed-price contract in order to assess the offerors' understanding of the requirements, offerors must be advised that the agency will conduct such an analysis. Emergint Techs., Inc., B-407006, Oct. 18, 2012, 2012 CPD ¶ 295 at 5-6. Our Office has consistently stated that, in the absence of an express price realism provision, we will conclude that a solicitation contemplates a price realism evaluation only where it expressly states that the agency will review prices to assess the offerors' understanding of the requirements, and where the solicitation states that an offeror's submission may be rejected on the basis of its low price. DynCorp Int'l LLC, B-407762.3, June 7, 2013, 2013 CPD ¶ 160 at 9. Absent a solicitation provision providing for a price realism evaluation, agencies are neither required, nor permitted, to conduct such an evaluation in awarding a fixed-price contract. Emergint Techs., Inc., supra.

Here, there is no dispute that the solicitation provided for submission of fixed-price quotations. RFQ at 5. Accordingly, in order for the agency to have "disqualified" GTS on the basis of its low price, the agency was required to have advised vendors of their

possible rejection on that basis prior to submission of quotations. Emergint Techs., Inc., supra. Based on our review of the record here, we believe there can be no meaningful dispute that the solicitation did not include FAR clause 52.222-46, nor did it otherwise provide for a price realism evaluation. Accordingly, we reject Jefferson's assertion that the agency's award to GTS was flawed because the agency failed to perform the type of realism evaluation that Jefferson asserts was required; Jefferson's protest in this regard is without merit.

The protest is denied.

Thomas H. Armstrong
General Counsel