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Decision

Matter of: Yulista Tactical Services LLC

File: B-417317.3; B-417317.5; B-417317.6

Date: January 15, 2020

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Jeffery M. Chiow, Esq., Lucas T. Hanback, Esq., Stephen L. Bacon, Esq., and Deborah N. Rodin, Esq., Rogers Joseph O’Donnell, PC, for Tyonek Global Services, LLC, the intervenor.
Captain Jeremy D. Burkhart, Stephen Hernandez, Esq., and Scott N. Flesch, Esq., Department of the Army, for the agency.
Lois Hanshaw, Esq., and Amy B. Pereira, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency’s evaluation is denied where the record reflects that the evaluation was reasonable and consistent with the solicitation’s terms and applicable procurement statutes and regulations.

DECISION

Yulista Tactical Services LLC (Yulista), an 8(a) small business of Huntsville, Alabama, protests the award of a contract to Tyonek Global Services, LLC (Tyonek), an 8(a) small business of Anchorage, Alaska, under request for proposals No. W91CRB19R0003, issued by the Department of the Army for aviation support services at the U.S. Army’s Redstone Test Center. Yulista challenges the agency’s evaluation and award decision.

We deny the protest.

BACKGROUND

The solicitation was issued on October 31, 2019, under Federal Acquisition Regulation (FAR) part 15, Contracting by Negotiation, as a set aside for companies participating in the Small Business Administration’s 8(a) Business Development Program. Agency Report (AR), Tab 3, RFP at 1, 126-27. The RFP contemplated the award of a cost-plus-fixed-fee level-of-effort contract on a best-value tradeoff basis considering the following

evaluation factors: technical; past performance; experience; transition plan; and cost/price. AR, Tab 12, RFP § M at 3-4. To be eligible for award a proposal was required to be rated acceptable or higher in every non-cost/price factor.¹ Id. at 5. In performing the best-value tradeoff, the technical factor was to be considered significantly more important than the cost/price factor.² Id. at 2.

The agency received multiple proposals, including those of Tyonek and Yulista, by the December 18 closing date. Contracting Officer’s (CO) Statement at 5. After evaluating initial proposals, conducting discussions, and receiving and evaluating final proposal revisions, Yulista’s and Tyonek’s final proposals were rated as follows:

	Tyonek	Yulista
Technical	Good	Acceptable
<i>Workforce Management</i>	Acceptable	Acceptable
<i>Technical Capability</i>	Good	Good
<i>Safety</i>	Good	Acceptable
Past Performance	Acceptable	Acceptable
Experience	Acceptable	Acceptable
Transition Plan	Acceptable	Acceptable
Proposed Price	\$102,148,952	\$97,499,823
Conflict of Interest	No	No

AR, Tab 21, Source Selection Decision Document (SSDD), at 6.

The CO, acting as the source selection authority (SSA), concluded that Tyonek’s proposal offered the best value to the government based upon a review of the Source Selection Evaluation Board (SSEB) report, and the SSA’s integrated assessment and comparison of strengths, weaknesses, and risks identified in the submitted proposals. Id. at 1. The SSA concluded that the advantages in Tyonek’s proposal under the technical subfactors warranted the price premium, as compared to lower-priced offerors, including Yulista. Id. at 37.

On September 20, the agency notified Yulista of award. After requesting and receiving a debriefing, Yulista filed a protest with our Office.

¹ The past performance, experience, and transition plan factors were to be rated as acceptable or unacceptable. RFP § M at 8, 10. The technical factor was to be assigned adjectival ratings, that would be, from highest to lowest: outstanding, good, acceptable, marginal, and unacceptable. Id. at 6.

² The cost/price factor would be evaluated for completeness, reasonableness, and realism. Id. at 2.

DISCUSSION

Yulista challenges the agency's evaluation of Yulista's proposal under the technical factor, Tyonek's proposal under the experience and past performance factors, and the resulting best-value award decision.³ While we do not address every issue raised, we have considered all of the protester's arguments to the extent they have not been withdrawn or dismissed, and conclude that none provides a basis to sustain the protest.

In reviewing protests challenging the evaluation of proposals, we do not conduct a new evaluation or substitute our judgment for that of the agency but examine the record to determine whether the agency's judgment was reasonable and in accord with the RFP evaluation criteria. Watts-Obayashi, Joint Venture; Black Constr. Corp., B-409391 et al., Apr. 4, 2014, 2014 CPD ¶ 122 at 9. An offeror's disagreement with the agency's evaluation, without more, does not establish that the evaluation was unreasonable. Leidos, Inc., B-414773, B-414773.2, Sept. 12, 2017, 2017 CPD ¶ 303 at 5. With regard to adjectival ratings, technical evaluators have wide discretion when assigning such ratings, given that the ratings reflect both objective and subjective judgments about the relative merits of different proposals and their ability to meet the agency's needs. Lynxnet, LLC, B-409791, B-409791.2, Aug. 4, 2014, 2014 CPD ¶ 233 at 9.

Technical Factor

Yulista challenges the agency's rating and assessment of strengths to its proposal under each subfactor of the technical factor. Protest at 14, 18, 20. The agency contends that it reasonably assigned strengths and ratings and that in evaluating Yulista's proposal, the agency was aware of, and evaluated the benefits offered by the protester's proposal. Memorandum of Law (MOL) at 14, 19, 23. We have reviewed all of the protester's challenges to the agency's evaluation under the technical factor and find that none provides a basis to sustain the protest. We discuss a representative example below.

³ Yulista has made arguments that are in addition to, or variations of, those discussed below, as well as arguments that were withdrawn during the development of the protest. See Comments and Supp. Protest at 12 n.10 (Yulista withdrew its allegation that the agency engaged in more rounds of discussions with offerors other than Yulista.); Supp. Comments and Supp. Protest at 10 n.6 (Protester views its argument that Tyonek's proposal relied on personnel's experience under the experience factor as "effectively mooted."). Additionally, prior to the submission of the agency report, the agency requested dismissal of Yulista's challenges to the evaluation of past performance and the agency's conduct of discussions with regard to prime contractor experience and organizational conflict of interest requirements. Request for Dismissal, Oct. 25, 2019, at 1-2. As we indicated in our response to the dismissal request, these challenges fail to state a valid basis of protest and are dismissed. 4 C.F.R. § 21.5(f); GAO Notice on Request for Partial Dismissal, Nov. 1, 2019, at 1.

The technical factor was comprised of three equally weighted subfactors: workforce management, technical capability, and safety. RFP § M at 6. The technical factor and each subfactor were assigned adjectival ratings. Id. at 4. Proposals were evaluated on the adequacy of the response and the feasibility of the approach.⁴ Id. at 5. Offerors were required to receive a rating of acceptable or better under each subfactor to receive an acceptable rating for the factor. Id. at 6.

As relevant here, under the workforce management subfactor, the RFP required offerors to provide a proposed management approach for the contract, including qualifications, roles and responsibilities, management chain, lines of communication, and an explanation of how the proposed structure would benefit the agency. AR, Tab 8, RFP § L at 8. Offerors were also required to provide two key personnel resumes. Id.

Yulista asserts that its proposal should have received separate strengths for each of its proposed key personnel that exceeded the RFP's requirements, rather than, what it describes as a "single, generic" strength for key personnel. Protest at 14. Yulista also contends that its proposal should have been rated good rather than acceptable because it met the requirements for assigning a rating of good.⁵ Id.

The record shows that in considering Yulista's proposal under the workforce management subfactor, the agency concluded that the resumes of both key personnel demonstrated leadership experience that exceed the minimum qualifications of the RFP, and assigned a strength to Yulista's proposal under this subfactor. AR, Tab 20, SSEB Report, at 129.⁶ Additionally, the SSEB stated that although the agency viewed the leadership experience of Yulista's key personnel to be advantageous to the government, the agency concluded that the proposal warranted a rating of acceptable because the proposal indicated an adequate, rather than thorough approach and understanding of the requirements. Id. at 131.

⁴ In evaluating the adequacy of the response, proposals were evaluated to determine whether an offeror's methods and approach adequately and completely addressed the RFP requirements. RFP § M at 5. In evaluating the feasibility of the approach, proposals were evaluated to determine whether the approach would be workable and achieve the end results, and the extent to which the offeror would be able to successfully comply with the proposed tasks and technical requirements within the required schedule. Id. at 5-6.

⁵ An acceptable proposal demonstrated an adequate approach and understanding of the requirements with offsetting strengths and weaknesses, and a risk of unsuccessful performance viewed as no worse than moderate. Id. at 6. A good proposal demonstrated a thorough approach and understanding of the requirements with at least one strength, and a low to moderate risk of unsuccessful performance. Id.

⁶ Citations are to the pages in the Adobe pdf version of the document provided by the agency.

On these facts, we find no basis to sustain the protest. Here, while Yulista disagrees with the number of strengths and adjectival ratings assessed to its proposal, it has not asserted that the agency overlooked any particular aspect of its proposed approach, or otherwise erred in its evaluation of Yulista's proposal under the technical factor. Additionally, the contemporaneous record confirms that the SSEB and SSA considered the experience of Yulista's key personnel and concluded that this strength did not merit a higher evaluation rating. AR, Tab 20, SSEB Report, at 125; Tab 21, SSDD, at 28. Moreover, there is no legal requirement that an agency must award the highest possible rating, or the maximum point score, under an evaluation factor simply because the proposal contains strengths and is not evaluated as having any weaknesses. Watts-Obayashi, Joint Venture; Black Constr. Corp., *supra*, at 12. Accordingly, we deny Yulista's challenges to the technical evaluation.

Past Performance

Yulista next challenges the agency's past performance evaluation, primarily arguing that Tyonek's proposal failed to comply with the RFP's instructions and evaluation criteria, and that the agency improperly failed to consider the past performance of Tyonek's major subcontractor.⁷ Comments and Supp. Protest at 21; Supp. Comments and Supp. Protest at 23.

Our Office will examine an agency's evaluation of an offeror's past performance only to ensure that it was reasonable and consistent with the stated evaluation criteria, since determining the relative merit of an offeror's past performance is primarily a matter within the agency's discretion. Arrowpoint Corp., B-417375.2, B-417375.3, Oct. 25, 2019, 2019 CPD ¶ 367 at 7. The evaluation of past performance, by its very nature, is subjective, and we will not substitute our judgment for reasonably based evaluation ratings; an offeror's disagreement with an agency's evaluation judgments, by itself, does not demonstrate that those judgments are unreasonable. Spinnaker JV, LLC, B-416688, Nov. 21, 2018, 2018 CPD ¶ 398 at 9.

Under the past performance factor, the RFP required offerors to provide information regarding recent and relevant contracts.⁸ RFP § L at 10. The RFP required that prior contracts identified for evaluation under the experience factor must also be identified for evaluation under the past performance factor, but the solicitation did not limit the

⁷ To the extent the protester raises challenges to the agency's evaluation implicating both the experience and past performance factor, we discuss these allegations in our review of the agency's past performance evaluation.

⁸ Recency was defined as efforts performed within 5 years of the issuance date of the solicitation. AR, Tab 31, Past Performance Assessment Report (PPAR), at 2. Relevancy was defined as efforts or services that are the same as, or similar, in size, scope, and complexity to the portions of the performance work statement (PWS) that the prime offeror or major subcontractor was proposed to perform. Id.

number of contracts that an offeror could identify. Id. The RFP advised that the government would focus its evaluation on the forms and questionnaires provided by the offeror.⁹ RFP § M at 8. The RFP also stated that offerors would be deemed to have satisfied the past performance factor when all references providing feedback as to recent and relevant efforts by the offeror and each of its major subcontractors, indicated that the offeror's performance was acceptable in all the areas evaluated by the source selection team. Id. Past performance proposals were rated as either acceptable or unacceptable based on the agency's assessment of the past performance, and the government's expectation that an offeror would successfully perform the required effort.¹⁰ Id. at 7.

Yulista argues that under both the past performance and experience factors, Tyonek's proposal substantively discussed prior contracts in addition to those that it identified for evaluation. Yulista contends that Tyonek sought to gain credit for its experience performing these contracts while not identifying these contracts for evaluation because they would have been rated negatively under the past performance factor.¹¹ Comments and Supp. Protest at 21. The agency acknowledges that Tyonek's proposal identified three contracts for evaluation, and merely referenced other contracts not offered for evaluation under either the past performance and experience sections of its proposal. Supp. MOL, Nov. 27, 2019, at 41. The agency argues, however, that Tyonek's mention of the additional contracts in these sections of its proposal did not amount to substantive discussions of the additional contracts, and that the agency did not rely on, or consider, these additional contracts in evaluating the experience and past performance factors.¹² Id. at 43.

The record shows that Tyonek's proposal identified the same three contracts for evaluation under the past performance and experience factors: two contracts performed by Tyonek, the AV-8 Harrier Maintenance Support contract performed for the

⁹ For any prior contract identified where the contractor did not meet the original schedule, technical performance requirements, or cost estimates during performance, the RFP required a brief explanation of the shortcomings and any corrective action taken. RFP § L at 11.

¹⁰ Based on the offeror's performance record, an acceptable proposal under the past performance factor demonstrated either a reasonable expectation that the offeror would successfully perform the required effort or that the offeror's performance was unknown. RFP § M at 8.

¹¹ Yulista raised a similar argument in its challenge to Tyonek's rating under the experience factor. For ease, we respond to both arguments in addressing Yulista's challenge to Tyonek's rating under the past performance factor. See Comments and Supp. Protest at 8.

¹² In support of this assertion, the agency offers a declaration from the SSA. AR, Tab 28, Declaration of SSA, at 1.

Marine Corps (AV-8), and UH-60M contractor field Team Maintenance performed for the Kentucky Army National Guard (KYARNG); and one contract performed by its major subcontractor, the Aviation Flight Test Directorate (AFTD) Maintenance Support contract performed for the U.S. Army Redstone Test Center. AR, Tab 30, Tyonek Past Performance Proposal, at 6, 8; Tab 17, Tyonek Experience Proposal, at 7, 9.¹³ Additionally, Tyonek's proposal mentions other contracts--for LUH-72 maintenance support performed for KYARNG, and for depot level maintenance performed at the Navy's Fleet Readiness Center Southeast. Id. at 6; Id. at 7. These additional contracts were briefly referenced and were not offered for evaluation under the experience and past performance factors. Id. at 6, 10; Id. at 7. Moreover, under each factor, the agency evaluated only the three contracts identified as being offered for evaluation and did not rely on, or reference, the contracts not offered for evaluation. See AR, Tab 20, SSEB Report, at 108-120. On these facts, we find no basis to sustain the protest.¹⁴

Yulista next argues that, what it contends was poor performance by Tyonek's major subcontractor on the AFTD contract should have been considered by the agency as part of Tyonek's past performance evaluation. Supp. Comments and Supp. Protest at 24. The agency acknowledges that Tyonek's proposal disclosed shortcomings¹⁵ in performance under this contract by Tyonek's major subcontractor. Supp. MOL, Dec. 9, 2018 at 9-10; AR, Tab 31, PPAR, at 10. The agency states that it attempted to contact the CO for this contract to obtain a past performance questionnaire (PPQ), but did not receive a response. Supp. MOL, Dec. 9, 2018 at 10. As a result, the agency explains that it did not have the information from the government customer necessary to determine whether Tyonek's subcontractor would successfully perform the requirement, and thus, did not consider the contract in its past performance evaluation. Id. at 12, 13.

We find no basis to question the agency's conclusion not to evaluate the AFTD contract. There is no legal requirement that all past performance, or even all past performance references listed in an offeror's proposal, be included in a valid review of past performance. Dismas Charities, B-298390, Aug. 21, 2006, 2006 CPD ¶ 131 at 5. What is critical is whether the evaluation is conducted fairly, reasonably, and in accordance

¹³ Citations are to the pages in the Adobe pdf version of the document provided by the agency.

¹⁴ Yulista's unsupported assertions that Tyonek failed to offer the LUH-72 contract for review due to negative past performance regarding this contract amount to little more than speculation. See Comments and Supp. Protest at 23.

¹⁵ The record shows that Tyonek identified two shortcomings and corrective actions for the AFTD contract. AR, Tab 30, Tyonek Past Performance Proposal, at 29. First, where a Tyonek employee granted an unauthorized guest access to a hangar with sensitive aircraft, Tyonek took corrective action by training employees on proper security protocols and ensuring their understanding; the employee at issue left a month after the incident and did not return. Id. Second, when a blade on an aircraft was damaged while moving planes into a hangar, Tyonek updated the procedure on moving aircraft into a hangar, and indicated that no additional damage has occurred. Id.

with the stated evaluation criteria, and whether it is based upon relevant information sufficient to reach a reasonable conclusion. Id. An agency is only required to make a reasonable effort to contact an offeror's references, and, where that effort proves unsuccessful, it is unobjectionable for the agency to evaluate an offeror's past performance based on fewer than the maximum possible number of references the agency could have received. Prime Envtl. Servs. Co., B-291148.3, Mar. 4, 2003, 2003 CPD ¶ 57 at 4.

The record shows that Tyonek sent a PPQ to the CO for the AFTD contract, but the CO did not return the PPQ. AR, Tab 31, PPAR, at 31. The record also shows that the agency reviewed Contractor Performance Assessment Reporting System (CPARS) reports and did not find any CPARS rating for this contract. Id. Additionally, the agency did not find any CPARS reports for Tyonek or any negative CPARS reports for Tyonek's major subcontractor. Id. In our view, it was not unreasonable for the agency to conclude that it could not determine whether the major subcontractor would successfully perform the requirement without qualitative performance information.¹⁶ See e.g., Dynacs Eng'g Co., Inc., B-284234 et al., Mar. 17, 2000, 2000 CPD ¶ 50 at 5. Moreover, the agency rated Tyonek's past performance as acceptable based on the information provided regarding the AV-8 contract and Yulista has not challenged the agency's evaluation of this contract. AR, Tab 31, PPAR, at 28. Consequently, the protester has not demonstrated that the agency's past performance evaluation was unreasonable.

Yulista also contends that it was unreasonable for the agency not to consider Tyonek's subcontractor's allegedly poor past performance of the AFTD contract, because the AFTD contract was for essentially the same services as here and the agency "presumably" had staff who would remember this performance. Supp. Comments and Supp. Protest at 25. The agency argues in response that the AFTD contract and the contract here were procured by different contracting activities and Yulista has failed to show any of the evaluators on this procurement had personal knowledge of Tyonek's subcontractor's performance on the AFTD contract. Id. at 15, 17.

We have recognized that in certain limited circumstances, an agency has an obligation (as opposed to the discretion) to consider outside information bearing on an offeror's past performance when it is "too close at hand" to require the offerors to shoulder the inequities that spring from an agency's failure to obtain and consider the information. International Bus. Sys., Inc., B-275554, Mar. 3, 1997, 97-1 CPD ¶ 114 at 5. Our Office has generally limited application of this principle to situations where the information relates to contracts for the same services with the same procuring activity, or

¹⁶ While not minimizing either shortcoming, it is not readily apparent that the shortcomings identified in Tyonek proposal--allowing unauthorized access to a hangar with sensitive aircraft and damaging the blade of an airplane--clearly fall within the RFP definition of shortcomings, i.e., contracts that did not meet the original schedule, technical performance requirements, or cost estimates.

information personally known to the evaluators. Knowology Corp., B-416208.3, Dec. 20, 2018, 2019 CPD ¶ 47 at 6.

Yulista's allegation does not meet this standard. The record shows that the award made here was made by a different contracting activity and different CO than those for the AFTD contract. AR, Tab 30, Tyonek Past Performance Proposals, at 11; RFP at 1.¹⁷ Further, despite merely claiming that the agency "presumably" had knowledge of Tyonek's past performance on the AFTD contract, see Supp. Comments and Supp. Protest at 26, the protester has not demonstrated, with evidence in the record, that any of the agency evaluators involved in this procurement were personally aware of this information. We therefore find no basis to question the agency's evaluation of Tyonek's past performance proposal and deny this protest ground.

Experience Factor

Yulista raises various challenges to the agency's evaluation under the experience factor. For example, the protester contends the agency disparately evaluated Yulista's and Tyonek's initial proposals and improperly credited experience to Tyonek and its major subcontractor. We have reviewed the arguments and find that none offers a basis to sustain the protest. We discuss representative examples below.

The RFP required offerors to identify contracts that demonstrated a minimum of 3 years of experience providing contract support in four competency areas, each of which included additional specific competency areas associated with PWS sections. RFP § L at 12-14. For example, under the Maintenance Measure competency area, the RFP stated:

The offeror shall demonstrate that they have a minimum 3 years (occurring within the past 9 years) of experience providing contract support in **at least four of the following seven** Maintenance Measure competency areas:

- 1) Scheduled maintenance/phase completion standards (PWS § 4.19);
- 2) Unscheduled maintenance plans (PWS § 4.3);
- 3) Maintenance quality (PWS § 6.13), production (PWS §§ 4.8, 6.5), Class 9 aviation supply (PWS §§ 6.1-6.3, 6.16-6.18), Government Furnished Property (PWS §§ 3.1-3.5, 7.4.1), Government warehouse (PWS § 6.7), and management reports (PWS §§ 3.1-3.5);
- 4) Undergo or support all Internal and Army command Aviation Resource Management Survey, Army Command/Organizational Inspection program, Government Flight Representative surveys, or other audits as required.

¹⁷ Tyonek's proposal identified the contracting activity for the AFTD contract as Army Contracting Command (ACC)-Redstone. AR, Tab 30, Tyonek Past Performance Proposals, at 11. The RFP identifies the contracting activity here as ACC-Aberdeen Proving Ground. RFP at 1.

- Record results and provide/assist Government corrective action progress reports (PWS § 4.21);
- 5) Test, Measurement, and Diagnostic Equipment delinquency and Instrument Master Record File (PWS § 4.13);
 - 6) Specially qualified personnel status such as property manager, technical supply, Hazardous Material, Aircraft Armament/Electrical, Safety, maintenance test pilots, Unit Level Logistics Systems-Aviation, and other unique/specific aviation maintenance support activities/shops (PWS § 6);
 - 7) Aviation Maintenance Support Process and task organization (PWS § 4).

Id. at 12-13 (emphasis in original).

Similarly, for the Aviation Maintenance competency area, an offeror had to show experience in seven of the eleven competency areas; at least four of the seven competency areas for the Inspection and Acceptance of Quality competency area; and at least five of the seven competency areas for the Flight Operations (Ops) Support competency area. Id. at 13-14.

As relevant here, in order for a prior contract effort to be considered, the proposal was required to confirm that the prime or major subcontractor that has experience in the competency areas identified in the Experience Form would support the same competency area if the offeror received award. RFP § L at 12. The Experience Form, included in the RFP, identified a competency area as both one of the four overarching competency areas--Maintenance Measure; Aviation Maintenance; Inspection and Acceptance of Quality; and Flight Ops Support--and one of the specific competency areas associated with specific PWS sections. See AR, Tab 37, Experience Form. Additionally, Amendment 4 to the RFP allowed offerors to present information requested in the Experience Form in a different format as long as the information required in the Experience Form was addressed. AR, Tab 7, RFP amend. 4 at 13.

For the purposes of the evaluation, experience was defined as experience of an offeror and any major subcontractor. RFP § M at 5. An offeror could identify a major subcontractor as a sister company, on whose experience it could rely, if the entity was proposed to perform work that comprised at least 10 percent of the proposed price. Id. at 9. Proposals were evaluated as either acceptable or unacceptable.¹⁸ Id.

Yulista argues that the agency improperly credited Tyonek with experience based on its subcontractor's experience in a competency area, even though Tyonek, and not its subcontractor, was proposed to support that competency area. Comments and Supp. Protest at 6. For example, Yulista asserts that although Tyonek's proposal stated that Tyonek would perform aviation maintenance support services, the agency improperly

¹⁸ Under the experience factor, an acceptable proposal was one that met the minimum requirement of 3 years of experience performing the specified competency areas. RFP § M at 10.

concluded that Tyonek's subcontractor was proposed to perform all eleven competency areas, and the agency improperly relied on the subcontractor's experience to assess experience in this competency area. Id. at 6-7. In response, the agency asserts that it reasonably credited Tyonek with its subcontractor's experience based on a chart in Tyonek's proposal that identified which entity would support the four competency areas identified in the RFP, i.e., the subcontractor was proposed to support all four competency areas, and Tyonek proposed to support the Maintenance Measure, Aviation Maintenance, and Inspection and Acceptance of Quality competency areas. Supp. MOL, Nov. 27, 2019, at 12-14. In response, Yulista argues that the agency's reliance on this chart is flawed because it identified only four competency categories, rather than the 32 PWS competency areas identified in the RFP. Supp. Comments and Supp. Protest at 7.

Here, the RFP stated that in order for a contract effort to be considered, the proposal must confirm that the prime or major subcontractor that has experience in the competency area will support the same competency areas if the offeror receives award. RFP Sec. § L at 12. Amendment 4 to the RFP allowed offerors to present information requested in the Experience Form in a different format as long as the required information was provided. RFP amend. 4 at 13. The Experience Form included headings that identify the competency areas as the four overarching categories, i.e., "Competency Area: Maintenance Measure." AR, Tab 37, RFP Attach. 1, Experience Form, at 1. The Experience Form also stated that an offeror shall demonstrate "experience providing contract support in at least [seven of the eleven] Aviation Maintenance competency areas." Id. at 2.

We conclude that the solicitation was ambiguous. Where a protester and an agency disagree over the meaning of ambiguous solicitation language, we will resolve the matter by first assessing whether each posited interpretation is reasonable. Shertech Pharmacy Piedmont, LLC, B-413945, Nov. 7, 2016, 2016 CPD ¶ 325 at 3. An ambiguity exists where two or more reasonable interpretations of the solicitation are possible. Anders Constr., Inc., B-414261, Apr. 11, 2017, 2017 CPD ¶ 121 at 5. A patent ambiguity exists where the solicitation contains an obvious, gross, or glaring error, while a latent ambiguity is more subtle. Odyssey Sys. Consulting Grp., Ltd., B-412519, B-412519.2, Mar. 11, 2016, 2016 CPD ¶ 86 at 5. In order to be considered timely, a protest of a patent ambiguity must be filed prior to the closing time for submission of proposals. DCR Servs. & Constr., Inc., B-415565.2, B-415565.3, Feb. 13, 2018, 2018 CPD ¶ 125 at 4 n.6; 4 C.F.R. § 21.2(a)(1).

Based on the plain language of the RFP, competency areas could be reasonably identified as either the four overarching categories or the 32 underlying tasks. However, given that this ambiguity is apparent on the face of the solicitation, we conclude that the RFP was patently ambiguous regarding competency areas. Thus, notwithstanding the protester's characterization of its protest as contesting the agency's evaluation, we conclude that this protest ground amounts to an untimely challenge to the terms of the solicitation. In this regard, our Bid Protest Regulations require that a patent ambiguity must be protested prior to the time set for receipt of initial proposals or quotations, when

it is most practicable to take effective action against such defects; otherwise, the protest is untimely. 4 C.F.R. § 21.2(a)(1); See Anders Constr., Inc., supra. An offeror that chooses to compete under a patently ambiguous solicitation does so at its own peril and cannot later complain when the agency proceeds in a way inconsistent with its interpretation. See id. Yulista's inaction renders untimely its challenges to the RFP's terms. 4 C.F.R. § 21.2(a)(1).

In the absence of a timely challenge to the RFP, we review the agency's evaluation to determine whether it was consistent with the agency's reasonable interpretation of the terms of the solicitation. Anders Constr. Inc., supra. Here, Tyonek's proposal used its own format, rather than the Experience Form, and offered a chart--showing the breakdown by which Tyonek and its major subcontractor would support the four overarching competency areas. AR, Tab 17, Tyonek Experience Factor, at 10. The agency concluded that this chart met the RFP requirement to show that the prime or major subcontractor with experience in a competency area would support the same competency area upon award. AR, Tab 20, SSEB Report, at 117-120. Additionally, the record shows that Tyonek's proposal was rated acceptable under the experience factor because the contracts identified by either Tyonek or its major subcontractor met the requirement to show a minimum of 3 years of experience in the required number of specific competency areas under each of the four overarching competency areas. Id. On this record we find the agency's evaluation unobjectionable.¹⁹

Finally, Yulista alleges that the best-value tradeoff decision was based on a flawed underlying evaluation and the SSA improperly determined that Tyonek's technical proposal warranted payment of a price premium. Protest at 29; Supp. Comments and Supp. Protest at 27. The record demonstrates that the SSA considered the relative benefits of proposals, by conducting an integrated assessment and comparison of their strengths, weaknesses, and risks, and concluded that Tyonek's proposal warranted the price premium. AR, Tab 21, SSDD, at 1, 37. There is no requirement that the source selection official quantify the value to the agency of the technical superiority of an awardee's proposal. Marianas Mgmt. Corp., B-411593, Sept. 3, 2015, 2015 CPD ¶ 280 at 9. Considering our conclusions above regarding the agency's evaluation of proposals and the SSA's independent assessment of the relative merits of proposals,

¹⁹ The protester also contends that the agency disparately evaluated its initial experience proposal. See e.g., Comments and Supp. Protest at 13. However, we see no need to resolve those challenges since its final revised experience proposal, not its initial proposal, was evaluated for award. See e.g., Lone Star Fleischwaren Im-Export GmbH, B-259588.2, May 25, 1995, 95-1 CPD ¶ 263 at 4 n.4.

Yulista has not shown that the agency erred in its evaluation of proposals or award decision.

The protest is denied.

Thomas H. Armstrong
General Counsel