



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

Comptroller General
of the United States

Decision

DOCUMENT FOR PUBLIC RELEASE

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

Matter of: Evergreen JV

File: B-418475.4

Date: September 23, 2020

Richard B. Oliver, Esq., J. Matthew Carter, Esq., and Mary E. Buxton, Esq., Pillsbury Winthrop Shaw Pittman LLP, for the protester.

Colonel Patricia S. Wiegman-Lenz, and April R. Guevarra, Esq., Department of the Air Force, for the agency.

Raymond Richards, Esq., Charmaine A. Stevenson, Esq., and Laura Eyester, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that the agency evaluated statements of qualification submitted in response to a synopsis for architect/engineering services in a manner inconsistent with stated evaluation criteria is sustained where the agency's evaluation did not include a qualitative assessment of the statements of qualification.

DECISION

Evergreen JV, a small business of San Diego, California, protests the evaluation and nonselection of its statement of qualifications for negotiation pursuant to synopsis No. FA8903-19-R-0097, issued by the Department of the Air Force, for architect/engineering (A/E) services. Evergreen challenges the Air Force's evaluation as unreasonable and not supported by the record.

We sustain the protest.

BACKGROUND

Generally, A/E procurements, such as the one at issue in this protest, are conducted pursuant to special procedures established by the Selection of Architects and Engineers Statute, also referred to as the Brooks Act, 40 U.S.C. §§ 1101-1104. These special procedures are implemented by Federal Acquisition Regulation (FAR) subpart 36.6. Under the competitive procedures established by FAR subpart 36.6, an agency issues a synopsis, which functions in a manner analogous to a traditional solicitation. FAR 36.601-2, 36.602. In response to a synopsis for A/E requirements, interested firms

submit a statement of qualifications using Standard Form 330 (SF 330), Architect-Engineer Qualifications. FAR 36.603(b).

Following the issuance of the synopsis and receipt of SF 330s, the agency head convenes an evaluation board to review the statements of qualification. 40 U.S.C. § 1103(c); FAR 36.602-3. The evaluation board conducts discussions with at least three of the most highly qualified firms regarding the anticipated concepts and relative utility of alternative methods of furnishing the required services. 40 U.S.C. § 1103(c); FAR 36.602-3(c). After discussions, the evaluation board prepares a selection report for the agency head or the designated selection authority, recommending at least three firms, in order of preference, considered to be the most highly qualified. 40 U.S.C. § 1103(c); FAR 36.602-3(d). The selection authority makes the final selection decision. FAR 36.602-4. Selection is based on the criteria established by the synopsis. 40 U.S.C. § 1103(d).

On July 16, 2019, the Air Force issued the synopsis for A/E services for Title I, Title II and other A/E services supporting military construction; sustainment, restoration, and modernization; and foreign military sales programs.¹ Contracting Officer's Statement (COS) at 3; AR, Tab 12, Synopsis at 1. The synopsis contemplated the award of several indefinite-delivery, indefinite-quantity (IDIQ) contracts, each with a 5-year base period and 5-year option period, with a total program ceiling valued at \$2 billion. Synopsis at 1, 5.

The synopsis divided the agency's requirements into four pools.² Synopsis at 1-11. Offerors were instructed to submit a cover letter along with an SF 330 indicating the pool of work for which they were competing. *Id.* at 4. Pool 2 (facilities), the subject of this protest, encompassed design work for new facilities including additions; facility sustainment, repair, and modernization; and demolition activities. *Id.* at 8. The synopsis explained that the agency would evaluate SF 330s to determine the most highly qualified firms. *Id.* at 11. The synopsis provided that the agency would evaluate statements of qualifications for each pool based on the following five evaluation criteria, listed below in order of importance:

- [Criterion] 1: Specialized Experience and Technical Competence
- [Criterion] 2: Professional Qualifications
- [Criterion] 3: Past Performance
- [Criterion] 4: Knowledge of the Locality

¹ Title I projects include the conduct of field surveys and investigations to obtain design data and prepare contract plans, specifications, cost estimates, and estimated construction periods of performance. Agency Report (AR), Tab 10, Statement of Work (SOW) at 3. Title II projects consist of the supervision and inspection of construction. *Id.*

² The four pools consisted of the following: pool 1 (airfield infrastructure); pool 2 (facilities); pool 3 (general infrastructure); and pool 4 (worldwide). Synopsis at 1.

[Criterion] 5: Capacity to Accomplish the Work

Id. The synopsis advised that the past performance, knowledge of the locality, and capacity to accomplish the work criteria would be evaluated on an acceptable/unacceptable basis. *Id.*

As relevant to this protest, under the specialized experience and technical competence criterion, the synopsis required offerors to submit descriptions of relevant and completed projects that demonstrate specialized experience and technical competence for the specific pool of interest. *Id.* at 11-12. The synopsis stated that to “be acceptable” the offeror must demonstrate relevant and completed projects, and that greater consideration may be given to offerors that demonstrate the following:

1. A greater extent and breadth of experience in a variety of relevant projects;
2. Relevant projects on a [Department of Defense (DOD)] installation where compliance with United Facilities Criteria was required;
3. Title II project(s) where the Offeror provided construction phase credentialed architectural and engineering support services;
4. Title I project(s) with greater complexity including more of [selected] elements[.]

Id. at 13.

Under the professional qualifications criterion, the synopsis required offerors to submit resumes for the proposed key personnel. *Id.* at 16. The synopsis advised that in evaluating statements of qualification, the agency would consider any information deemed pertinent to this criterion, including: proposed key personnel, professional registration, competence, related experiences, years with the company, and education. *Id.* Proposed key personnel were required to be current, active “certified payroll” employees of either the prime or the teaming partner, and to have at least 10 years of experience in their respective disciplines. *Id.* at 16-17. The lead project manager and the program manager, however, were required to be employed by the prime contractor. *Id.* at 17. In addition, the SOW established general minimum personnel requirements. SOW at 10-13. The synopsis stated the agency would consider the following in its evaluation of this criterion:

1. The extent and breadth of relevant experience;
2. The extent of relevant professional licenses/certifications[;]
3. Education/training, and longevity with their firm, for each key person, with more consideration given to key personnel employed by the Prime;³

³ The agency’s evaluation considered education, longevity, and employment by the prime contractor as separate and distinct parts of this element of the criterion. See AR, Tab 14, Selection Evaluation Report at 12.

4. The extent of experience on [DOD] programs related to the scope in the [] SOW[;]
5. Resumes that include relevant projects submitted in [the specialized experience and technical competence criterion] may be evaluated more favorably; and
6. Resumes submitted where the key person has performed in the role proposed for this contract may also be evaluated more favorably.

Synopsis at 18.

Statements of qualification were due by September 3, 2019. *Id.* at 5. Forty-eight firms, including Evergreen, submitted statements of qualification to compete under pool 2 (facilities). COS at 5. On January 24, 2020, the Air Force notified Evergreen that it was not selected as a most highly qualified firm. Protest at 9. Following a debriefing, including questions submitted by Evergreen, the agency notified Evergreen that it intended to conduct a reevaluation of all statements of qualifications. *Id.* at 12.

On March 20, the Air Force again notified Evergreen that it was not selected as a most highly qualified firm. *Id.* Evergreen filed a protest with our Office challenging the agency's evaluation of its statement of qualifications. *Id.* at 14. On April 17, the Air Force filed a notice of corrective action stating that it would reevaluate the statements of qualifications. *Evergreen JV*, B-418475.2, Apr. 21, 2020 (unpublished decision). On April 21, our Office dismissed Evergreen's protest as academic. *Id.*

On June 1, the Air Force completed its reevaluation. The agency selected nine firms as the most highly qualified.⁴ AR, Tab 14, Selection Evaluation Report at 16. Again, the agency did not select Evergreen as one of the nine most highly qualified firms.

With respect to the agency's evaluation, for the specialized experience and technical competence criterion, the agency reviewed the projects submitted and totaled the number of project examples deemed to be relevant; ensured that the prime performed at least two Title I or other A/E Services projects, and at least one Title II project; and totaled the number of instances the offeror demonstrated an "element for greater consideration" across the relevant project examples submitted. AR, Tab 14, Selection Evaluation Report at 7-10; Tab 15, Evergreen Criterion 1 Evaluation Report; Tab 17, Evergreen Evaluation Report. The selection evaluation report explained that firms demonstrating "more relevant and complete projects and where those projects contain more of the characteristics (elements of greater consideration)" were more highly qualified because those firms were better able to substantiate their extent and breadth

⁴ The agency states that because the specific A/E requirements are determined at the task order level and not at the IDIQ level, the evaluation board saw no benefit in having discussions regarding concepts and the relative utility of alternate methods of furnishing the required services as required by FAR 36.602-3(c). AR, Tab 14, Selection Evaluation Report at 16.

of experience. AR, Tab 14, Selection Evaluation Report at 10. In its evaluation report for Evergreen, the agency concluded that:

- 1) All 6 projects were considered relevant based on the scope of work. The Prime performed at least 2 Title I/Other A-E Services projects and 1 Title II project, meeting the minimum requirement.
- 2) The firm demonstrated 13 elements for greater consideration across all relevant projects submitted.

AR, Tab 17, Evergreen Evaluation Report.

Under the professional qualifications criterion, the agency evaluated the six criteria listed in the synopsis. In its evaluation report for Evergreen, the agency (referring to the criteria as sub-elements) concluded as follows:

Sub-Element 1-Extent and breadth of relevant experience: The individuals proposed for Project Manager and Program Manager were indeed employed by the Prime and all proposed Key Personnel met the 10 year experience minimum for their respective discipline.

Sub-Element 2-Extent of relevant professional licenses/certifications: All offerors successfully completed block 17 and included their Key Personnel's current Professional Registration. All proposed Architects and Engineers successfully demonstrated the appropriate Professional Engineer (PE) or Registered Architect (RA) [license].

Sub-Element 3a-Education/Training: The offeror successfully completed block 16 and included their Key Personnel's education/training.

Sub-Element 3b-Longevity with firm: The offeror successfully completed block 14b and included their Key Personnel's longevity with current firm.

Sub-Element 3c-Employed by Prime: The number of Key Personnel employed by the Prime listed in block 15 were added together and totaled to be 12[.]

Sub-Element 4-Extent of experience on [DOD] programs related to the scope in the AE Next: The offeror successfully completed block 19 and successfully demonstrated their extent of experience with [DOD] programs specifically related to the scope of work in this contract.

Sub-Element 5-Involved in relevant projects submitted in Criterion 1: Each instance where a Key Personnel was involved with a relevant project from Criterion (1) was added together and totaled to be 23 instances.

Sub-Element 6-Performed same role as proposed for this contract: All proposed Key Personnel, successfully demonstrated performing in the role proposed for this contract.

Id. The agency evaluated Evergreen as acceptable for the past performance, knowledge of the locality, and capacity to accomplish the work criteria. *Id.*

On June 8, the agency issued debriefing letters to all firms, including Evergreen. COS at 3; AR, Tab 18, Evergreen Debriefing at 1. This protest followed.

DISCUSSION

Evergreen raises multiple challenges to the Air Force's evaluation of its statement of qualifications under the specialized experience and technical competence, and professional qualifications criteria. Specifically, the protester asserts that the agency applied a mechanical, quantitative comparison under those two criteria, which did not properly consider Evergreen's qualifications. Protest at 17-28; Comments at 5-38. Additionally, Evergreen contends that the Air Force's evaluation decision is not supported by adequate documentation. Protest at 27-28; Comments at 4.

The Air Force argues that it properly found Evergreen was not among the most highly qualified firms. Memorandum of Law (MOL) at 7. According to the agency, its evaluation of statements of qualification was conducted in accordance with FAR subpart 36.6 and the evaluation method described in the synopsis, and Evergreen's statement of qualifications was fully considered. *Id.* at 8-17. Further, the Air Force states that "the record includes all documents related to the Agency's decision to remove Evergreen's Statement of Qualifications from the competition." Agency Resp. to Document Req. at 2.

In reviewing a protest of an agency's selection of a contractor to negotiate with for A/E services, our Office will not substitute its judgement for that of the agency evaluators. *Coffman Eng'rs., Inc.*, B-416724, B-416724.2, Nov. 28, 2018, 2018 CPD ¶ 409 at 6; *OLBN Architectural Serv., Inc.*, B-402444.4, B-402444.5, Oct. 4, 2010, 2011 CPD ¶ 55 at 3. However, we will question the agency's conclusions where they are inconsistent with the synopsis criteria or applicable procurement statutes and regulations, where they lack adequate documentation, or where they are not reasonably based. *Risk Analysis & Mitigation Partners*, B-409687, B-409687.2, July 15, 2014, 2014 CPD ¶ 214 at 6-7. For the reasons set forth below, we sustain the protest.

Specialized Experience and Technical Qualifications--Criterion 1

Evergreen asserts that under the specialized experience and technical qualifications criterion there is no indication that the agency compared the elements of the firm's statement of qualifications, which the synopsis advised the agency would review for greater consideration, with the quality or strength of the statements of qualification submitted by other offerors. Protest at 28; Comments at 31-32. Evergreen argues that the agency failed to perform a qualitative assessment and only performed a quantitative and mechanical comparison of qualification statements. Comments at 32.

The Air Force disagrees, asserting that it performed a "subjective, thorough and comprehensive evaluation of Evergreen's [statement of qualifications] in accordance with the Synopsis and FAR [subpart] 36.6." MOL at 15. The Air Force explains that for this criterion, offerors that demonstrated a higher number of relevant and complete projects, and a higher number of the additional evaluation elements, were able to demonstrate a greater extent and breadth of experience. As a result, the Air Force concluded that these offerors were more highly qualified. *Id.* at 9.

As noted, under the specialized experience and technical competence criterion, the synopsis required offerors to submit descriptions of relevant and completed projects that demonstrate specialized experience and technical competence for the specific pool of interest. Synopsis at 11-12. The synopsis stated that to "be acceptable" the offeror must demonstrate relevant and completed projects; however, the synopsis also advised that "greater consideration may be given to Offerors that demonstrate: (1) a greater extent and breadth of experience in a variety of relevant projects"; (2) relevant DOD installation projects with United Facilities Criteria; (3) Title II projects where the offeror provided construction phase credentialed architectural and engineering support services; and (4) Title I projects with greater complexity including more of certain elements.⁵ *Id.* at 13-15.

The evaluation report states that Evergreen provided six relevant project examples, and Evergreen's evaluation documents show that it was credited with meeting 13 elements for greater consideration across all relevant projects submitted. AR, Tab 17, Evergreen Evaluation Report; Tab 15, Evergreen Criterion 1 Evaluation Report. The agency evaluated each submitted project example against the synopsis's requirements and assessed whether the project example met (Yes) or did not meet (No) each applicable solicitation requirement. AR, Tab 15, Evergreen Criterion 1 Evaluation Report. For

⁵ These elements include DOD hangar construction and renovation; major renovation projects (exceeding \$15 million and including six specified disciplines); historic facility renovation (valued at greater than \$7 million); seismic assessment or renovation projects; design or renovation of a sensitive compartmented information facility (SCIF); and utility facility projects (such as repair of chilled water plants or similar plants). Synopsis at 14-15.

example, the agency concluded that Evergreen had 13 elements “of greater consideration” by totaling the number of boxes marked with Yes, as follows:

	Project 1	Project 2	Project 3	Project 4	Project 5	Project 6
Title I Projects with Greater Complexity						
DOD Hangar Construction and Renovation	No	Yes	No	N/A		
Major Renovation Projects	Yes	Yes	No	N/A		
Historical Facility Projects	No	No	No	N/A		
Seismic Assessment or Renovation	No	Yes	No	N/A		
SCIF	No	No	Yes	N/A		
Utility Facilities	No	No	No	N/A		
Title II Projects with Construction Phase Credentialed A/E Support					Yes	Yes
DOD Installation Projects with United Facilities Criteria	Yes	Yes	Yes	Yes	Yes	Yes

Id. The agency concluded as follows with respect to this criterion:

Those firms that demonstrated a higher number of relevant and complete projects and/or demonstrated a higher number of the elements of greater consideration listed in the Synopsis were generally determined to be more highly qualified. This is because firms that are able to demonstrate *more* relevant and complete projects and where those projects contain *more* of the characteristics (elements of greater consideration) listed in the synopsis are better able to substantiate that they have a greater extent

and breadth of experience - particularly specialized experience and technical competence related to this acquisition. Therefore, these firms are categorically more highly qualified than those firms that demonstrate *less* relevant and complete projects and/or demonstrate *less* of the elements of greater consideration described in the Synopsis.

AR, Tab 14, Section Evaluation Report at 10.

We conclude that the agency's evaluation is not in accordance with the synopsis. The synopsis stated that greater consideration may be given to offerors demonstrating "a greater extent and breadth of experience in a variety of relevant projects." Synopsis at 13. The agency did consider this experience, but only by counting the number of occurrences for an element in the projects provided by the offeror. This simple counting of instances, however, does not consider the "greater extent and breadth" of each offeror's experience in each of the projects. As the protester argues, and we agree, there is nothing in the record to show the agency considered the quality or strength of the instances where the firm demonstrated experience with a project. Accordingly, the mechanical comparison, without a qualitative comparison of offerors, is inconsistent with the synopsis criteria, and not reasonably based. See *Risk Analysis & Mitigation Partners, supra*. We therefore sustain this protest allegation.

Professional Qualifications--Criterion 2

Evergreen also argues that the Air Force's evaluation of the firm's statement of qualifications under the professional qualifications criterion was unreasonable. Protest at 18; Comments at 5. According to Evergreen, where a solicitation states that an agency will evaluate "the extent" to which a proposal exceeds a requirement, a comparative, qualitative assessment is contemplated. Protest at 18-26; Comments at 5-30. Rather than evaluating the extent of Evergreen's compliance with the elements of the professional qualifications criterion, the protester contends that the agency evaluated these elements on a "pass/fail" basis, considering only whether Evergreen met the respective element's minimum requirements.⁶ *Id.* The protester argues that had the agency evaluated the extent to which Evergreen exceeded the synopsis's minimum requirements, Evergreen would have had a substantial chance of being rated as one of the most highly qualified firms. Protest at 2; Comments at 5.

The agency argues that it did consider the extent of professional qualifications set forth in the statement of qualifications. COS at 7-14. The agency also states it considered all the elements listed under this criterion, including key personnel, professional registration, competence, related experiences to accomplish the work, years with the company, and education. *Id.* at 6.

⁶ Evergreen's protest also alleged that the agency failed to evaluate whether its key personnel previously performed in their proposed roles, the sixth element of this criterion identified in the synopsis. Protest at 25-26. The protester subsequently withdrew this protest allegation. Comments at 30 n.6.

Where a solicitation indicates that the agency will evaluate the “extent” a proposal meets a particular requirement, offerors can reasonably expect that a proposal exceeding the agency’s minimum requirements will garner a more favorable evaluation than one that merely meets the requirements. See *Logistics 2020, Inc.*, B-408543, B-408543.3, Nov. 6, 2013, 2013 CPD ¶ 258 at 2, 5-7 (protest is sustained where solicitation required evaluation of “the extent that” proposals met the agency’s requirements); *NJVC, LLC*, B-410035, B-410035.2, Oct. 15, 2014, 2014 CPD ¶ 307 at 2; *Industrial Data Link Corp.*, B-248477.2, Sept. 14, 1992, 92-2 CPD ¶ 176 at 2, 4.

Here, the synopsis did not state that the agency would evaluate SF 330s under the professional qualifications criterion on an acceptable/unacceptable basis. Rather, the synopsis stated that the agency would consider “[t]he extent and breadth of relevant experience”; “[t]he extent of relevant professional licenses/certifications”; “[e]ducation/training, and longevity with their firm, for each key person, with more consideration given to key personnel employed by the Prime”; and the extent of DOD experience related to the work scope. Synopsis at 18. In addition, the synopsis stated that resumes that included relevant projects where the key person performed in the role for this contract, may be evaluated more favorably. *Id.* We conclude that the terms of the synopsis required the agency to make a qualitative assessment under the professional qualifications criterion, which the agency failed to do. We address this in further detail below.

Relevant Experience

The synopsis stated that the agency “will consider [t]he extent and breadth of relevant experience.” Synopsis at 18. The synopsis further stated that all key personnel were required to have at least 10 years of experience in their respective disciplines. *Id.* at 16-17. The SOW imposed further minimum requirements on the experience required for certain key personnel. SOW at 10-13. As relevant here, a program manager was required to have: (1) a minimum of 10 years of program management experience; and (2) a minimum of 5 years of experience with DOD facility design program management. *Id.* at 10. A project manager was required to have: (1) a minimum of 8 years of project management experience; and (2) a minimum of 5 years of experience managing DOD infrastructure design projects. *Id.* at 11.

Evergreen argues that the experience of its proposed key personnel greatly exceeds the minimum requirements, but it was only credited with meeting the minimum requirements. Protest at 19-20; Comments at 7-9. For example, Evergreen states that its program manager has 39 years of experience, its lead project manager has 21 years of experience, and all other proposed key personnel exceed the minimum 10 years, for a combined average of 27 years of experience. Protest at 20; Comments at 8. The agency argues that the synopsis did not require it to give extra consideration to offerors whose key personnel had more than 10 years of experience. MOL at 10.

In evaluating the experience of key personnel, the evaluation board verified that the individuals proposed for the positions of project manager and program manager were employed by the prime, and that all proposed key personnel had at least 10 years of experience in their respective disciplines. AR, Tab 14, Selection Evaluation Report at 11. No additional consideration was given to offerors exceeding the minimum requirements because the agency concluded that the “synopsis does *not* state that additional consideration would be given to offerors with experience beyond the minimum 10 year experience requirement.” *Id.* Evergreen’s evaluation documents show that its key personnel were rated “YES” under this element, and Evergreen was given credit for meeting the minimum requirements. AR, Tab 16, Evergreen Criterion 2 Evaluation Report; Tab 17, Evergreen Evaluation Report. No narrative statement or other assessment was included in the agency’s evaluation of relevant experience.

We find this evaluation contrary to the terms of the synopsis and unreasonable. The record fails to demonstrate how the agency assessed the “extent and breadth” of the experience of Evergreen’s key personnel when the agency only gave credit for key personnel meeting the minimum experience requirement. The agency’s evaluation of Evergreen’s statement of qualifications did not qualitatively assess the experience of Evergreen’s proposed key personnel. For example, the agency did not consider the total number of years of experience possessed by each key person or Evergreen’s extent of experience compared with the extent of experience demonstrated by other offerors. See *Logistics 2020, Inc., supra* at 6. We sustain this protest allegation.

Professional Licenses/Certifications

The synopsis stated that the agency would consider the “extent of” the relevant professional licenses and certifications held by the proposed key personnel. Synopsis at 18. The SOW required that the project manager have a professional engineering registration or registered architect license. SOW at 11. The SOW also stated that the primary technical services must be performed by licensed (e.g., registered professional engineer) individuals. *Id.* at 4.

Evergreen argues that its statement of qualifications demonstrates all of its key personnel hold relevant licenses and certifications, which makes it one of the most highly qualified offerors. Protest at 21-22; Comments at 23-25. Evergreen also asserts that the agency unreasonably failed to give extra consideration for proposed key personnel that exceed the licenses/certifications requirement and therefore the agency miscalculated Evergreen under this element. *Id.* The agency argues that Evergreen was given due credit under this element because the agency was only required to evaluate whether the key personnel proposed had the licenses/certifications required by the synopsis. MOL at 11; COS at 8.

The record reflects that the agency recognized and credited each of Evergreen’s key personnel with having licenses and certifications to perform in their respective discipline. AR, Tab 16, Evergreen Criterion 2 Evaluation Report; Tab 17, Evergreen Evaluation Report. The report explains that “[a]ll proposed Architects and Engineers successfully

demonstrated the appropriate Professional Engineer (PE) or Registered Architect (RA) [license].” AR, Tab 17, Evergreen Evaluation Report. The agency explains that:

Across all Offerors, all proposed Architects and Engineers successfully demonstrated the appropriate Professional Engineer (PE) or Registered Architect (RA) [license]. As a result, the team determined that all Offerors met this evaluation requirement (with the exception of [one offeror]). The synopsis does *not* state that additional consideration would be given to offerors key personnel that had more licenses and/or certifications than what was required for their respective discipline.

AR, Tab 14, Selection Evaluation Report at 11-12.

Although the agency gave Evergreen credit for each key person’s license and certification, several of Evergreen’s proposed key individuals had additional licenses or certifications that were not considered. As noted, the synopsis stated that the agency “will consider any information, which may be pertinent to this criterion, including” professional registrations. Synopsis at 16. While the agency gave Evergreen credit for the key individuals holding some type of license or registration, the evaluation report fails to qualitatively assess the “extent of” the relevant professional licenses and certifications held. Accordingly, we find the agency’s evaluation was contrary to the terms of the synopsis and unreasonable. We sustain this protest allegation.

Longevity with the Firm

The synopsis stated that the agency would consider “[e]ducation/training, and longevity with their firm, for each key person, with more consideration given to key personnel employed by the Prime.” Synopsis at 18. Evergreen argues that the agency’s evaluation of its statement of qualifications was improper because the agency failed to assess the number of years each proposed key person has been employed by their respective firm. Protest at 22-23; Comments at 25-27. In this regard, Evergreen argues that all of its key personnel have significant longevity with their respective firms, but the agency only gave Evergreen credit for meeting the minimum requirements. *Id.* For example, Evergreen states that its program manager has been with the firm for 13 years, its lead project manager 21 years, and the average years with the firm for all of the key personnel is 10 years. *Id.* The Air Force responds by stating “the evaluation team conducted a subjective evaluation of Evergreen’s proposal and concluded that [Evergreen] had successfully completed block 14b [of SF 330] and included their Key Personnel’s longevity with the current firm.” MOL at 12.

The agency’s evaluation of the protester’s submission shows that the firm’s key personnel were rated “YES” under this element, and Evergreen was given credit for successfully completing its SF 330 and “includ[ing] their Key Personnel’s longevity with [their] current firm.” AR, Tab 16, Evergreen Criterion 2 Evaluation Report; Tab 17, Evergreen Evaluation Report. In evaluating this element, the selection evaluation report states:

SF[]330 Section E, Block 14(b) was reviewed and the evaluation team fully considered longevity (years of experience with their current firm) for each Key Personnel and for all Offerors. All offerors successfully completed block 14(b) and included their Key Personnel's longevity (years of experience with their current firm). As a result, the team determined that all [offerors] met this evaluation requirement (with the exception of [one offeror]). The synopsis does not state that additional consideration would be given to Offerors [whose] key personnel had more or less longevity with their current firm.

AR, Tab 14, Selection Evaluation Report at 12.

We find this evaluation unreasonable. The synopsis required the agency to consider the number of years each key person has with their current firm, with more consideration given to key personnel employed by the prime. Synopsis at 18. The agency's evaluation merely ensured that the offeror inserted a number into block 14b of its SF 330--the agency did not, for example, qualitatively assess the number of years each offeror's key personnel demonstrated, or compare the longevity of an offeror's key personnel against the longevity of key personnel demonstrated by other offerors. We sustain this protest allegation.

Experience with DOD Programs

The synopsis stated that the agency would consider, for each key person, the "extent of experience on [DOD] programs related to the scope [of work] in the [] SOW." Synopsis at 18. The SOW listed certain minimum requirements for proposed program managers, project managers, and technical laborers. SOW at 10-13. Evergreen argues that it proposed key personnel with DOD experience well above the minimum requirements articulated in the SOW, but was only given credit for meeting the minimum requirements. Protest at 23-24; Comments at 27-29. For example, Evergreen's program manager has 30 years and the lead project manager has 16 years of relevant DOD program experience. *Id.* The agency argues that Evergreen was given credit for successfully demonstrating its experience with DOD programs. MOL at 12.

The agency's evaluation of this aspect of the protester's submission reflects that all of Evergreen's key personnel were rated "YES" under this element. In addition, Evergreen was given credit for successfully completing block 19 of the SF 330 and successfully demonstrating its extent of experience on DOD programs related to the SOW. AR, Tab 16, Evergreen Criterion 2 Evaluation Report; Tab 17, Evergreen Evaluation Report. In evaluating this element, the selection evaluation report states:

SF 330 [] Block 19 was reviewed and the evaluation team fully considered the extent of experience with [DOD] programs specifically related to the scope of work in this contract. All offerors successfully completed block 19 and all offerors successfully demonstrated their extent of

experience with [DOD] programs specifically related to the scope of work in this contract. As a result, the team determined that all Offerors met this evaluation requirement. The synopsis does *not* state that additional consideration would be given to Offerors' Key Personnel's extent of experience on [DOD] programs related to the scope in the [] SOW [for this requirement.]

AR, Tab 14, Selection Evaluation Report at 12-13.

We find this evaluation unreasonable. The synopsis advised offerors that the agency would evaluate "the extent" of key personnel's experience on DOD programs. The agency's evaluation did not qualitatively assess the number of years each offeror's key personnel demonstrated, or compare an offeror's experience against the experience demonstrated by other offerors. We sustain this protest allegation.

Participation in Relevant Projects

The synopsis stated that "[r]esumes [of proposed key personnel] that include relevant projects submitted in Criterion (1) may be evaluated more favorably." Synopsis at 18. Evergreen argues that almost all of its key personnel performed on four contracts submitted under the specialized experience and technical competence criterion, and performed in the role they are proposed for here. Protest at 25-26; Comments at 31-32. Evergreen states that the agency counted only the number of times an individual was involved with a relevant and complete project submitted under the specialized experience and technical competence criterion, and therefore "there is no difference in the Air Force's evaluation if a key person had involvement for one month or five years." Comments at 31.

In its evaluation, the agency states that "[e]ach instance where a [key person] was involved with a relevant project from Criterion 1 was subsequently added together for each Offeror." AR, Tab 14, Selection Evaluation Report at 13. The agency further states that "[a]s a result, the evaluation team fully considered this sub-element and did evaluate it more favorably." *Id.* The record reflects that Evergreen was given credit for 23 such instances. AR, Tab 17, Evergreen Evaluation Report.

The evaluation documents do not reflect a qualitative assessment of the respective key person's involvement in the projects. We find such an evaluation is mechanically derived and applied, and thus unreasonable. We sustain this protest allegation.

Prejudice

The contracting officer explains that Evergreen's evaluation report was compared with the evaluation report of the lowest-ranked most highly qualified offeror, Offeror 9. COS at 16. The contracting officer states that "the most significant deciding discernable quality" between Evergreen's evaluation report and Offeror 9's evaluation report was under sub-element 5 of the professional qualifications criterion. *Id.* Under this

sub-element, the agency was to consider resumes of proposed key personnel that included experience on relevant projects detailed in offerors' statements of qualifications under the specialized experience and technical competence criterion. Synopsis at 18. There, Offeror 9 was credited with 40 instances where its proposed key personnel performed on example projects. COS at 16. In comparison, Evergreen was credited with 23 instances. *Id.* According to the contracting officer, “[a]ll other evaluation metrics between Evergreen and [Offeror 9] were determined to be equal or were not significant enough to impact the evaluation decision.” *Id.* The agency cites to its evaluation report to support its contentions; however, the evaluation report only shows the ranking of the firms and provides no discussion on each firm's evaluation or a substantive comparison of the statements of qualification.

We find that Evergreen was competitively prejudiced by the agency's unreasonable evaluation and selection decision. Given that the synopsis advised offerors that the agency would perform a qualitative assessment of certain aspects of the statement of qualifications, and the agency failed to do so, a review consistent with the synopsis could result in Evergreen being rated as a most highly qualified offeror. See *Risk Analysis & Mitigation Partners, supra*.

RECOMMENDATION

In sum, we sustain Evergreen's protest because the Air Force evaluated Evergreen's statement of qualifications in a manner inconsistent with the stated evaluation criteria in the synopsis. We recommend that the Air Force reevaluate statements of qualification consistent with the synopsis, and make a new selection of offerors for negotiation based on the results of the reevaluation. To the extent that the evaluation criteria in the synopsis do not accurately reflect the agency's requirements, we recommend that the Air Force amend the synopsis, consistent with the Selection of Architects and Engineers Statute and FAR part 36.6, advise offerors of the agency's requirements and intended evaluation approach, and solicit revised statements of qualifications.

We also recommend that Evergreen be reimbursed for the costs of filing and pursuing the protest. 4 C.F.R. § 21.8(d)(1). The protester's certified claims for such costs, detailing the time expended and costs incurred, must be submitted directly to the Air Force within 60 days after receipt of this decision. *Id.* § 21.8(f)(1).

The protest is sustained.

Thomas H. Armstrong
General Counsel