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Decision

Matter of: Kearney & Company, PC

File: B-420331; B-420331.2

Date: February 4, 2022

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Michael Price, Esq., Raymond Richards, Esq., and John Sorrenti, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. Protest challenging the agency's evaluation of a vendor's quotation under a key personnel experience requirement is denied where the record shows that the evaluation was conducted in accordance with the terms of the solicitation and did not violate applicable procurement law or regulation.
 2. Protester is not an interested party to raise additional protest grounds where the record reflects that the protester's quotation was reasonably found to be ineligible for award, and where the record also reflects the existence of an unchallenged, award-eligible quotation submitted by a vendor who is next in line for award.
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DECISION

Kearney & Company, PC (Kearney), of Alexandria, Virginia, protests the issuance of a task order to Cotton & Company, LLP (Cotton), also of Alexandria, Virginia, under request for quotations (RFQ) No. HQ042321R0029, issued by the Department of Defense, Defense Finance and Accounting Service (DFAS), for auditing services. The protester challenges the agency's evaluation of quotations and alleges that the awardee has an impaired objectivity organizational conflict of interest (OCI).

We deny the protest.

BACKGROUND

The RFQ was issued on April 19, 2021, under the procedures of Federal Acquisition Regulation (FAR) subpart 8.4, Federal Supply Schedules (FSS). Agency Report (AR), Exh. 1, RFQ at 1, 33. The agency sought quotations from public accounting firms holding General Services Administration (GSA) multiple award schedule (MAS) contracts under category 541211, audit services. *Id.* at 34. The prospective contractor would be called upon to perform audit services involving the Defense Security Cooperation Agency's security assistance account. *Id.* at 3; see also Contracting Officer's Statement (COS) at ¶ 1.

The RFQ contemplated the issuance of a labor-hour task order with a 1-year base period and four 1-year option periods. RFQ at 4. Award was to be made on a best-value tradeoff basis considering price and the following non-price factors: (1) past performance; (2) key personnel experience; (3) technical understanding and approach; and (4) small business participation plan. *Id.* at 38-39. The first three non-price factors were equally weighted, and when combined, were significantly more important than price. *Id.* at 39. The small business participation plan factor was to be evaluated on a pass/fail basis. *Id.* The RFQ advised that the agency could issue an order without holding discussions. *Id.* at 33. Quotations were due by June 3, 2021.¹

The agency received four quotations in response to the RFQ. COS at ¶ 14. A technical evaluation team (TET) convened to evaluate quotations under the factors of past performance, key personnel experience, and technical understanding and approach. AR, Exh. 7, TET Report at 1-23. The TET assigned the following ratings to the quotations submitted by Kearney and Cotton:²

	Kearney	Cotton
Past Performance	Substantial Confidence	Satisfactory Confidence
Key Personnel Exp.	Good	Good
Tech. Understanding & Approach	Good	Good

Id. at 23.

¹ We note that the copy of the RFQ in the record states that the due date for receipt of quotations was May 20. RFQ at 1. The contracting officer states that the due date was extended to June 3. COS at ¶ 2; see AR, Exh. 4, Email from Agency to Kearney (extending due date to June 3); AR Exh. 5, Email from Agency to Cotton (same).

² The past performance factor was rated on a scale of: substantial, satisfactory, neutral, limited, or no confidence. RFQ at 40. The key personnel experience factor and the technical understanding and approach factor were rated on a scale of: outstanding, good, acceptable, marginal, or unacceptable. *Id.* at 41-42. Quotations rated as unacceptable were rendered ineligible for award. *Id.* at 42.

The Source Selection Authority (SSA) reviewed the findings of the TET and “took substantial exception to several of the overall ratings.” AR, Exh. 8, Source Selection Decision Document (SSDD) at 1. Notably, the SSA disagreed with the rating assigned to Kearney’s quotation under the key personnel experience factor. As will be discussed in detail below, the SSA concluded that Kearney’s proposed “principal,” a key person, did not meet the minimum experience requirement established by Kearney’s FSS pricelist.³ *Id.* For this reason, the SSA revised Kearney’s rating under this factor from good to unacceptable which rendered Kearney’s quotation ineligible for award. *Id.*; COS at ¶ 28. The SSA evaluated the quotations submitted by Kearney and Cotton as follows:

	Kearney	Cotton
Past Performance	Substantial Confidence	Satisfactory Confidence
Key Personnel Exp.	Unacceptable	Good
Tech. Understanding & Approach	Good	Good
Small Business Participation	-- ⁴	Pass
Price	\$23,403,808	\$20,441,799

AR, Exh. 8, SSDD at 2, 14.

Of the four quotations submitted, the SSA concluded that only two were eligible for award. *Id.* at 14. As the SSA concluded that Kearney’s quotation was not eligible for award, it was not included in the best-value tradeoff decision. *Id.* The SSA performed a tradeoff between the quotations submitted by Cotton and another vendor, and determined that Cotton’s quotation represented the best value to the government. *Id.* at 14-15. On October 22, Kearney learned of the agency’s award decision. Protest, exh. B, Email from Agency to Kearney, Oct. 22, 2021. On November 1, Kearney timely filed this protest with our Office.

Preliminary Procedural Matters

Kearney’s protest challenges the procurement in a number of ways. On November 9, the agency filed a request for dismissal. DFAS argued that Kearney was not an interested party to challenge the award to Cotton since: (1) Kearney’s quotation was found to be ineligible for award because a proposed principal, a key person, did not

³ An FSS pricelist details supplies and services offered by an FSS contractor. See FAR 8.402(b). Pricelists detail pricing and terms and conditions pertaining to each special item number on the schedule. *Id.*

⁴ The record does not reflect that Kearney’s small business participation plan was reviewed or rated. See AR, Exh. 7, TET Report; AR, Exh. 8, SSDD.

meet the minimum experience requirement of Kearney's FSS pricelist; and (2) even if Cotton were found to be ineligible for award, there was an award-eligible quotation next in line for award, depriving Kearney of the direct economic interest needed to maintain a protest. DFAS Req. for Dismissal at 1-3. To support this request, the agency filed as exhibits a copy of Kearney's FSS pricelist effective as of June 30, 2021; the resume of Kearney's proposed principal; the RFQ; and a redacted copy of the SSDD. As explained below, we declined to dismiss the protest.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3557, only an interested party may protest a federal procurement. 31 U.S.C. § 3551. To qualify as an interested party, a protester must be an actual or prospective offeror or vendor whose direct economic interest would be affected by the award of a contract or order, or the failure to award a contract or order. *Id.* § 3551(2)(A); 4 C.F.R. § 21.0(a)(1). Determining whether a party is interested involves consideration of a variety of factors, including the nature of the issues raised, the relief sought, and the party's status in relation to the procurement. *SRA Int'l., Inc.; NTT DATA Servs. Fed. Gov't., Inc.*, B-413220.4 *et al.*, May 19, 2017, 2017 CPD ¶ 173 at 28. Generally, to have the requisite economic interest to maintain a protest, the protester must demonstrate that it would be in line for award if its protest were sustained. *Id.*

On November 18, Kearney filed a supplemental protest based on the information disclosed in the request for dismissal. Kearney challenged the agency's conclusion that its quotation was ineligible for award based on the proposed principal's alleged lack of experience. Supp. Protest at 2-7. First, Kearney argued that the agency miscalculated years of experience and that its proposed principal actually exceeded the minimum experience requirements established in its FSS pricelist. *Id.* at 4-6. Second, Kearney argued that it was unreasonable for the agency to find its quotation ineligible for award based on the resume of one individual because the RFQ did not require specific key personnel positions (*e.g.*, "principal" or "partner"), nor did the RFQ establish minimum experience requirements. *Id.* at 6-7.

Kearney also filed a response to the agency's request for dismissal. There, Kearney argued that but for the allegedly unreasonable evaluation of its quotation under the key personnel experience factor, Kearney would have been the vendor with the highest technically rated quotation, putting it in line for award. Resp. to DFAS Req. for Dismissal at 1-2. Additionally, Kearney argued that the agency's exhibits did not support the existence of an awardable intervening vendor. *Id.* at 2. The protester asserted that the SSDD filed with the request for dismissal was so heavily redacted that it was impossible to check the veracity of the agency's position regarding the intervening vendor. *Id.* at 2-3.

Our Office concluded that dismissal was not appropriate at that time. Kearney's supplemental protest challenged the reasonableness of the agency's evaluation of its quotation under the key personnel experience factor. The unacceptable rating assigned to Kearney's quotation under this factor was the basis for the agency's argument that Kearney was not an interested party. Because Kearney timely challenged the agency's

assessment of its quotation as unacceptable, we found that Kearney was an interested party to protest the evaluation of its own quotation. In this regard, if we found that the agency unreasonably assigned a rating of unacceptable to Kearney's quotation under the key personnel experience factor, Kearney would still be in line for award and therefore would be an interested party to pursue its other challenges.

DISCUSSION

Kearney contends that: (1) the agency's evaluation of its quotation under the key personnel experience factor was unreasonable; (2) Cotton has an impaired objectivity OCI which the agency failed to assess; (3) the agency's evaluation of its quotation and Cotton's quotation under the remaining technical factors was unreasonable; and (4) the RFQ required a price realism analysis which the agency failed to perform when evaluating Cotton's staffing mix.⁵ Supp. Protest at 2-7; Protest at 14-30; Comments at 6-31.

As will be discussed in detail below, we address the merits of Kearney's challenge to the agency's assessment that Kearney's quotation was unacceptable, but find that Kearney is not an interested party to maintain the remaining protest grounds. We find that the agency reasonably assessed a deficiency to Kearney's quotation under the key personnel experience factor, rendering its quotation ineligible for award. In addition, the record, as now developed, adequately reflects the existence of an intervening vendor with an award-eligible quotation. Since Kearney has not challenged the award eligibility of the quotation submitted by the intervening vendor, even if Kearney's challenges directed at Cotton were sustained, the intervening vendor would be in line for award of the task order--not Kearney. Our analysis begins by addressing the evaluation of Kearney's quotation and proceeds to explain why Kearney is not interested to raise its remaining challenges.

Where an agency issues a solicitation to FSS contractors under FAR subpart 8.4 and conducts a competition, we will review the record to ensure that the evaluation was reasonable and consistent with the terms of the solicitation. *Knight Point Sys., LLC*, B-416602, B-416602.2, Oct. 26, 2018, 2018 CPD ¶ 371 at 5. In reviewing a protest challenging an agency's technical evaluation, our Office will not reevaluate quotations. *DEI Consulting*, B-401258, July 13, 2009, 2009 CPD ¶ 151 at 2. Rather, we will examine the record to determine whether the agency's evaluation was reasonable and consistent with the terms of the solicitation and applicable procurement statutes and regulations. *Id.* A protester's disagreement with the agency's judgments does not establish that the evaluation was unreasonable. *Deloitte Consulting, LLP*, B-416882.4, Jan. 6, 2020, 2020 CPD ¶ 21 at 4. As explained below, we find that the agency's evaluation here was reasonable and that the record supports the agency's conclusion that Kearney's quotation was ineligible for award.

⁵ Kearney's protest also alleged that Cotton misrepresented the availability of its key personnel. Protest at 9-13. This allegation was subsequently withdrawn. Comments at 1 n.1.

Evaluation of Kearney's Quotation

Under the key personnel experience factor, the RFQ provided the following instructions to vendors:

Contractors shall submit a capability statement for each employee that will be considered Key Personnel. Key Personnel are defined as supervisors and those in managerial roles (e.g. Partner, Director, Manager and Supervisor). Resumes must be submitted for all proposed Key Personnel. Resume content shall include the following for each employee: proposed assigned position for the solicited requirement and labor category from its GSA MAS contract, current employer name, current security clearance, specific work experience including dates (month/year) accomplished for listed audit projects, education, professional certifications held and any other experience or qualifications which demonstrate the quality and/or relevance the employee may contribute to the solicited requirement.

RFQ at 35 (emphasis omitted).

Regarding the evaluation of quotations under the key personnel experience factor, the RFQ provided the following: "The Government will review the resumes submitted for key personnel to ensure that the experience demonstrated within the resume meets the proposed GSA schedule labor description requirements."⁶ *Id.* at 40. The RFQ explained that quotations could be assigned strengths, weaknesses, significant weaknesses, or deficiencies. *Id.* at 41.

As noted above, the agency convened a TET to evaluate quotations under the non-price factors. COS at ¶ 14. In reviewing Kearney's quotation under the key personnel experience factor, the TET found that one individual included as a key person--the proposed principal--did not meet the minimum experience requirement listed in Kearney's FSS pricelist. AR, Exh. 7, TET Report at 16-17. The TET found that Kearney's FSS pricelist required an individual proposed as a principal to have 12 years of experience, and that Kearney's proposed principal had only 11 years and 1 month of experience. *Id.*; see AR, Exh. 6, Kearney Non-Price Quotation at 130-132.⁷ Since

⁶ For purposes of this decision, "GSA schedule" and "FSS pricelist" should be read synonymously. The FAR explains that the "Federal Supply Schedule program is also known as the GSA Schedules Program or the Multiple Award Schedule Program." FAR 8.402(a). The FAR also explains that "GSA schedule contracts" require all schedule contractors to publish an FSS pricelist containing all supplies and services offered by the contractor. FAR 8.402(b).

⁷ Citations to Kearney's non-price quotation are to the Adobe PDF page numbers.

Kearney's proposed principal did not meet this minimum experience requirement, the TET assessed a weakness to Kearney's quotation.⁸ AR, Exh. 7, TET Report at 17.

The SSA did not agree with the TET's assessment of a weakness to Kearney's quotation under the key personnel experience factor. AR, Exh. 8, Source Selection Decision Document (SSDD) at 8. To that point, the SSA stated:

I have determined that proposing a key person[] that does not meet the minimum experience requirements which Kearney itself established in its GSA Schedule, does not comply with the requirements of the RFQ. Thus, this should have been identified as a deficiency^[9] in the Kearney quote. Thus, I am revising the rating for the Key Personnel Experience factor from Acceptable to Unacceptable.^[10]

Id. (emphasis omitted). The SSA concluded that Kearney's quotation as a whole was rendered unacceptable and excluded it from the best-value tradeoff. *Id.* at 12, 14. The SSA then performed a best-value tradeoff between Cotton's quotation and that of another vendor, and selected Cotton for award. *Id.* at 12-15.

Kearney challenges the agency's evaluation of its quotation under the key personnel experience factor on multiple fronts.¹¹ First, Kearney contends that it is not clear which edition of its FSS pricelist was actually used during the evaluation of its quotation, and that the agency either misunderstood the experience requirements in Kearney's FSS pricelist or improperly used the wrong version of the pricelist. Comments at 2-3, 6-12. Next, Kearney argues that even if its proposed principal did not meet the requirements of its FSS pricelist, such a fact should not have resulted in its quotation being found deficient and thus unawardable. *Id.* at 7. Our decision addresses these challenges in turn.

⁸ The RFQ defined a weakness as: "A flaw in the quotation that increases the risk of unsuccessful contract performance." RFQ at 41.

⁹ The RFQ defined a deficiency as: "A material failure of a quotation to meet a Government requirement or a combination of significant weaknesses in a quotation that increases the risk of unsuccessful contract performance to an unacceptable level." RFQ at 41.

¹⁰ The RFQ defined a rating of unacceptable under the key personnel experience factor as: "Quotation does not meet requirements of the solicitation, and thus, contains one or more deficiencies, and/or risk of unsuccessful performance is unacceptable. Quotation is unawardable." RFQ at 42.

¹¹ Kearney raises collateral arguments in this area. While our decision does not address each argument raised, we have reviewed them all and find no basis to sustain the protest.

FSS Pricelist Issues

In response to the protest, the agency explains that it evaluated Kearney's quotation using the version of Kearney's pricelist in effect on the date it began the evaluation.¹² COS at ¶ 53. DFAS argues it properly found that Kearney's proposed principal failed to meet the experience requirement of that pricelist. *Id.* at ¶¶ 55-57. The agency also states that it would have been "most appropriate" to use the version of Kearney's pricelist in effect as of the deadline for quotation submission (which is not what actually occurred). *Id.* at ¶ 53. Notwithstanding this statement, the agency argues that the proposed principal likewise does not meet the requirements of that pricelist. *Id.* at ¶¶ 53-57; Memorandum of Law at 7-8, n.1.

Kearney argues that the contemporaneous evaluation record does not adequately document which version of the pricelist the agency actually used for its evaluation, and that GAO should reject the agency's *post hoc* explanations about which pricelist it used. Comments at 8-9. Kearney also contends that in response to the protest, the agency has essentially conceded that it should have used the pricelist in effect when Kearney submitted its quotation. Further, Kearney argues that, contrary to the agency's claim, the proposed principal met the experience requirements of this pricelist. *Id.* at 10.

The edition of Kearney's pricelist which was in effect on the due date for submission of quotations became effective on December 7, 2020, and was valid through June 5, 2021 (the December 7 pricelist). Comments, exh. B, Dec. 7 Pricelist at 1. Under the December 7 pricelist, the job description of the "principal" labor category required: "Minimum [of] eight (8) years of experience (with [certified public accountant license (CPA)] or advanced degree, otherwise twelve (12) years)." Comments, exh. B, Dec. 7 Pricelist at 7.

The edition of Kearney's pricelist that was in effect on the date the agency began its evaluation became effective on June 5, 2021, and was valid through December 6, 2025 (the June 5 pricelist).¹³ AR, Exh. 11, June 5 Pricelist at 1. Under the June 5 pricelist, the job description of the "principal" labor category required 12 years of experience and a bachelor's degree. AR, Exh. 11, June 5 Pricelist at 8. Unlike the December 7 pricelist, the June 5 pricelist required a principal to have a minimum of 12 years of experience, and did not allow for fewer years of experience if the individual held a CPA. *Id.* at 13.

¹² In support of its request for dismissal, the agency produced a different version of Kearney's pricelist, under which Kearney contends its proposed principal met the experience requirements. However, the agency clarified that it provided this version of the pricelist in error and that it did not use this pricelist for its evaluation. COS at ¶ 53.

¹³ We note that the June 5 pricelist became effective 2 days after the June 3 deadline for quotation submission. See AR, Exh. 4, Email from Agency to Kearney; AR Exh. 5, Email from Agency to Cotton (establishing June 3 as the submission deadline).

With respect to Kearney's contention that the contemporaneous record does not adequately establish which version of the pricelist was used for the evaluation, we disagree. Instead, we conclude that the record supports the agency's representation that it used the June 5 pricelist. See COS at ¶ 53 ("The GSA MAS provided to the TET for evaluation of Kearney's quote was effective June 5, 2021 and was the Kearney MAS available on the GSA website when the technical evaluation of Kearney's quote began.").

In this regard, the TET report states that the evaluation of quotations began on June 7 and concluded on July 30. AR, Exh. 7, TET Report at 1. In evaluating Kearney's quotation, the report states: "[Proposed principal] does not meet the [minimum] experience requirement of 12 years for the 'principal' labor category (Kearney GSA Schedule pg. 8)." *Id.* at 17. We find that this contemporaneous statement supports a conclusion that the TET relied on the June 5 pricelist for the following two reasons. First, the June 5 pricelist contains an experience requirement of 12 years, which is the requirement quoted by the TET. See AR, Exh. 11, June 5 Pricelist at 8. Second, the June 5 pricelist is Kearney's only pricelist where the principal labor category appears on page 8 of the document, which is the pinpoint citation noted in the TET's contemporaneous report. See Comments, exh. B, Dec. 7 Pricelist at 7; AR, Exh. 11, June 5 Pricelist at 8; DFAS Req. for Dismissal, exh. A, June 30 Pricelist at 7. Based on the record as a whole, we see no support for the protester's claim that the agency failed to establish it used the June 5 pricelist to evaluate Kearney's quotation.

With respect to Kearney's contention that the agency effectively conceded that it was required to evaluate its quotation using the pricelist in effect at the time of quotation submission, *i.e.*, the December 7 pricelist, we again disagree. Based on the terms of the solicitation and in the absence of clear legal authority, we find no basis to conclude that the agency acted improperly by using the June 5 pricelist for its evaluation. Below, we discuss our review of the solicitation and the relevant procurement regulations.

As an initial matter, we note that the solicitation did not specify that the agency would evaluate quotations based on pricelists effective at the time of quotation submission. Nor did it mandate the use of any other specific pricelist. As the solicitation was silent to this issue, we next consider the relevant procurement regulations.

Subpart 8.4 of the FAR covers the FSS program. The procedure for placing orders for services requiring a statement of work and for evaluating quotations are detailed in FAR subsection 8.405-2. Our review of the FAR finds no guidance about when a vendor's approved FSS pricelist must be retrieved from GSA during an evaluation of quotations, nor does it obligate a procuring agency to use a pricelist that is in effect at a certain moment in time. See *id.* Moreover, the parties have not cited any other binding authority on this issue, and we see no guidance in other applicable regulations. See Defense Federal Acquisition Regulation Supplement 208.405, 208.406-1; General Services Acquisition Manual 508.4, 515.370.

We conclude that it was reasonable for the agency to retrieve a copy of Kearney's approved and effective pricelist from GSA at the time it evaluated quotations (*i.e.*, the June 5 pricelist), and to use that edition of the pricelist to evaluate Kearney's quotation.

In addition, despite the agency's assertion that it would have been "most appropriate" to use the pricelist in effect at the due date for quotation submission, we do not conclude the agency acted improperly here. As explained above, on this record, use of the pricelist in effect as of the date the agency began its evaluation was proper and reasonable.¹⁴

Assessing the Quotation as Unacceptable was Reasonable

Finally, Kearney argues that it was unreasonable for the agency to assign a rating of unacceptable to its quotation under the key personnel experience factor. Based on our review of the record, we find that the agency's evaluation was reasonable and consistent with the solicitation.¹⁵

Clearly stated solicitation requirements are considered material to the needs of the government, and a quotation that fails to conform to the material terms and conditions of the solicitation is considered unacceptable and may not form the basis for award. *Akira Techs., Inc.; Team ASSIST*, B-412017, *et al.*, Dec. 7, 2015, 2015 CPD ¶ 383 at 5. In a competitive FSS procurement, it is a vendor's burden to submit a quotation that is adequately written and establishes the merits of the quotation. *Id.*

A review of the solicitation shows that the provision of key personnel meeting the experience requirements established by a vendor's FSS pricelist was a material

¹⁴ As noted above, the agency claims that using the pricelist in effect as of the due date for quotation submission would not have changed the evaluation because Kearney's proposed principal did not meet the experience requirements of that pricelist either. Kearney argues that this conclusion is incorrect and based on a misunderstanding. Since we have determined that the agency could properly use the June 5 pricelist in its evaluation and was not required to use an earlier version of the pricelist, we need not consider whether the proposed principal would have met the experience requirements of the earlier pricelist.

¹⁵ Kearney does not dispute that its proposed principal does not meet the experience requirement listed in the June 5 pricelist. See *generally* Comments at 8-12. Rather, Kearney states that a "GSA MAS process modification error" regarding the June 5 pricelist is to blame for the absence of a substitution method allowing for professional certifications to substitute for experience (which would allow the proposed principal to be credited with 2 additional years of experience due to their CPA license). *Id.* at 10-11 n.5. Kearney does not allege that this modification error is the fault of the government or otherwise provide our Office with a reason to consider it. Therefore, the alleged modification error does not factor into our analysis.

requirement of the RFQ. Under the key personnel experience factor--a section of the solicitation devoted entirely to the consideration of experience of key personnel--the RFQ required vendors to submit resumes for all individuals proposed as key. RFQ at 35. Key personnel were defined as supervisors and those in managerial roles.¹⁶ *Id.* The RFQ stated that key personnel resumes would be evaluated “to ensure that the experience demonstrated within the resume meets the proposed GSA schedule labor description requirements.” *Id.* at 40.

Here, Kearney failed to meet this material requirement. Vendors were on notice that they were required to propose individuals with sufficient experience, and that this would be evaluated by comparing proposed individuals’ resumes to the corresponding firm’s FSS pricelist. Kearney’s proposed principal, a key person, had fewer than the 12 years of experience required by Kearney’s June 5 FSS pricelist. In this regard, the SSA exercised discretion and assessed a deficiency to Kearney’s quotation based on this shortcoming. Based on the terms of the solicitation and our review of the record, we conclude that this was a matter within the SSA’s sound discretion; the protester’s disagreement with the agency’s judgment does not establish that the evaluation was unreasonable. Accordingly, this protest ground is denied.

Interested Party Issues

With respect to Kearney’s remaining protest grounds, we find that Kearney is not an interested party to maintain them. The record here shows that the quotation of a third vendor was considered as part of the best-value tradeoff. While the record shows that this vendor’s quotation received a rating of marginal under the technical understanding and approach factor, and was assessed as creating more risk than the awardee’s quotation, the quotation was not unacceptable. As a result, the inclusion of this vendor’s quotation in the tradeoff decision provides contemporaneous evidence that this was the quotation next in line for award.

Despite being made aware of this intervening vendor’s quotation, Kearney has not challenged the eligibility of the quotation for an award. Accordingly, even if we were to find Cotton’s quotation ineligible for award, on this record, the intervening vendor’s quotation would be in line for award. Thus, Kearney lacks the requisite economic interest to maintain its protest on the remaining issues. See 31 U.S.C. § 3551(2)(A); 4 C.F.R. § 21.0(a)(1); see *SRA Int’l., Inc.*, *supra*; see also *HVF West, LLC v. United States*, 846 F. App’x. 896, 898 (Fed. Cir. 2021) (“To succeed in showing that it had a direct economic interest, [protester] had to make a sufficient showing that it had a ‘substantial chance’ of winning the contract.”); *Gulf Civilization Gen. Trading & Contracting Co.*, B-419754, B-419754.2, June 10, 2021, 2021 CPD ¶ 208 at 8-9 (discussing *HVF West* and finding that the protester was not an interested party where it failed to raise credible allegations challenging the agency’s evaluation of intervening

¹⁶ Kearney’s quotation designates the proposed principal as a key person and shows them as a “team lead” for one of the “major audit areas of the [security assistance account].” See AR, Exh. 6, Kearney Non-Price Quotation at 21-24.

offers); *HCR Constr., Inc.*; *Southern Aire Contracting, Inc.*, B-418070.4, B-418070.5, May 8, 2020, 2020 CPD ¶ 166 at 6-7 n.6.

The protest is denied.

Edda Emmanuelli Perez
General Counsel