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Decision

Matter of: HeiTech-PAE, LLC

File: B-420049.9; B-420049.10

Date: June 8, 2022

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DIGEST

1. Protest challenging the agency's evaluation of awardee's staffing proposal is denied where the agency's evaluation was reasonable, consistent with the stated evaluation criteria, and adequately documented.

2. Protest challenging the agency's post-corrective action evaluation because it was not reconciled with an earlier evaluation is denied because it lacks a factual and legal basis.

3. Protest challenging the agency's evaluation of protester's proposal is denied where the agency's evaluation was reasonable, consistent with the stated evaluation criteria, and adequately documented.

DECISION

HeiTech-PAE, LLC, of Landover, Maryland, protests the award of a contract to the Brilliant Corporation, of Reston, Virginia, under request for proposals (RFP) No. 70SBUR21R00000009, issued by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), for records operations services. The protester contends that the agency's evaluation of proposals and best-value tradeoff decision were improper.

We deny the protest.

BACKGROUND

The USCIS, a component agency of DHS, administers lawful immigration to the United States as well as the U.S. naturalization process. Agency Report (AR), Tab 8, Performance Work Statement (PWS) at 1. Within USCIS, the mission of its National Benefits Center (NBC) is to support the centralization of immigration application pre-processing required for the agency's 88 field offices. *Id.* As part of its mission, the USCIS requires records support to receive and process the fees associated with immigration applications and other petitions under the NBC's jurisdiction. These requirements are reflected in the PWS of the "records operation contract" (ROC) solicitation here. *Id.*

The RFP was issued on December 29, 2020, as a small business set-aside, pursuant to the procedures of Federal Acquisition Regulation (FAR) part 15.¹ AR, Tab 5, RFP at 2; Contracting Officer's Statement (COS) at 2. The solicitation contemplated the award of a hybrid fixed-price and time-and-materials contract for a 12-month base period with four 12-month options. RFP at 62, 153. The RFP established that award would be made on a best-value tradeoff basis, based on six evaluation factors: (1) facility clearance; (2) staffing recruitment and retention (recruitment and retention); (3) corporate experience; (4) management approach; (5) past performance; and (6) price. *Id.* at 71. The non-price factors were listed in descending order of importance and, when combined, were more important than price.² *Id.*

The agency employed a multi-phase, advisory selection process to conduct the competition. In the first phase, the agency validated, on a pass/fail basis, whether the offeror possessed an active facility clearance at the secret level. In the next phase, offerors were evaluated on the recruitment and retention factor and the corporate experience factor, and informed of their competitive viability. The last phase involved the submission of proposals regarding the final three evaluation factors. RFP at 72-73; COS at 1-2.

Six offerors, including Brilliant and HeiTech-PAE submitted timely proposals. COS at 3. An agency technical evaluation committee (TEC) evaluated proposals under the recruitment and retention, corporate experience, and management approach factors, using an adjectival rating scheme that was set forth in the solicitation as follows: outstanding, good, acceptable, or unacceptable. RFP at 76. An agency business evaluation committee (BEC) evaluated offerors' past performance using a separate rating scheme: substantial confidence, satisfactory confidence, low confidence, or neutral. *Id.* at 77. The agency did not rate offerors' prices, but assessed prices for arithmetic accuracy and reasonableness. *Id.* at 75. By July 30, 2021, the agency

¹ The RFP was subsequently amended five times. All citations are to the final, conformed version of the solicitation.

² The RFP also established that the facility clearance factor would not be included in the price/technical tradeoff decision. *Id.* at 73.

completed its evaluation, with the evaluation ratings and prices of the Brilliant and HeiTech-PAE proposals as follows:

	Brilliant	HeiTech-PAE
Facility Clearance	Pass	Pass
Recruitment and Retention	Outstanding	Outstanding
Corporate Experience	Good	Outstanding
Management Approach	Good	Unacceptable
Past Performance	Substantial Confidence	Satisfactory Confidence
Price	\$341,047,736	\$390,808,733

COS at 3. On July 30, the agency source selection authority (SSA) found that Brilliant’s proposal represented the overall best value to the agency and selected Brilliant for award. *Id.* at 4.

On August 9, HeiTech-PAE filed a protest with our Office, challenging the agency’s evaluation of proposals and resulting award decision. Protest, B-420049.3, Aug. 9, 2021. On September 23, USCIS notified our Office that it planned to take corrective action by reevaluating proposals and making a new award decision. Agency Notice of Corrective Action, B-420049.3, B-420049.5, Sept. 23, 2021. As a result, we dismissed the HeiTech-PAE protest as academic. *HeiTech-PAE, LLC*, B-420049.3, B-420049.5, Sept. 27, 2021 (unpublished decision).

By January 11, 2022, the USCIS completed its reevaluation, with the final evaluation ratings and prices of the Brilliant and HeiTech-PAE proposals as follows:

	Brilliant	HeiTech-PAE
Facility Clearance	Pass	Pass
Recruitment and Retention	Outstanding	Outstanding
Corporate Experience	Good	Good
Management Approach	Good	Acceptable
Past Performance	Substantial Confidence	Satisfactory Confidence
Price	\$341,047,736	\$390,808,733

AR, Tab 30, TEC Report (Corporate Experience), Dec. 14, 2021, at 1-34; Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 1-31; Tab 33, BEC Report, Jan. 11, 2022, at 1-28. As part of the evaluation, the evaluators identified strengths and weaknesses, and, in some instances, made other factual findings in support of the adjectival ratings assigned.

On February 18, the SSA received and reviewed the final technical and business evaluation reports. AR, Tab 34, Source Selection Decision Document (SSDD) at 1-13. The SSA found Brilliant's proposal to be technically superior to HeiTech-PAE's proposal, under the management approach and past performance factors--the proposals were found to be technically equal under the recruitment and retention, and corporate experience, factors--and lower priced by approximately 13 percent (\$50 million). *Id.* at 6-9. The SSA then concluded that Brilliant's higher technically rated, lower-priced proposal, represented the overall best value to the government, and that no tradeoff was required. *Id.* at 9.

On February 28, after receiving notice of award and a debriefing, HeiTech-PAE filed this protest with our Office.

DISCUSSION

The protester raises various challenges to the agency's evaluation of proposals submitted by HeiTech-PAE and Brilliant. The protester challenges the reasonableness of the agency's evaluation of both offerors under the management approach factor. HeiTech-PAE also claims the agency miscalculated the protester's proposal under the corporate experience factor. Finally, HeiTech-PAE contends the agency's award decision was unreasonable because it was based on a flawed underlying evaluation of proposals.³ Protest at 13-38; Supp. Protest at 3-18.

We have considered all of the protester's arguments and, while we do not address them all, find that none provide any basis on which to sustain the protest. Importantly,

³ HeiTech-PAE also challenged the agency's evaluation of Brilliant's price proposal because the agency elected not to perform a price realism evaluation. Protest at 35, *citing* RFP at 75 ("The government reserves the right to conduct a price realism analysis if it is deemed necessary within the discretion of the contracting officer."). As the decision to conduct a price realism evaluation here was a matter within the agency's discretion, and not required, we dismissed the protester's argument because it failed to state a valid basis of protest. See *Earth Res. Tech. Inc.*, B-416415, B-416415.2, Aug. 31, 2018, 2018 CPD ¶ 312 at 10; *Oklahoma State Univ.*, B-406865, Sept. 12, 2012, 2012 CPD ¶ 276 at 6; see also *American Relocation Connections, LLC*, B-416035, May 18, 2018, 2018 CPD ¶ 174 at 6 (dismissing a challenge to an agency's decision not to exercise its discretionary authority as failing to state a valid basis of protest).

HeiTech-PAE also alleged the agency's evaluation of proposals under the management approach factor was disparate. Supp. Protest at 15-17. As this protest ground was entirely speculative in nature and failed to provide sufficient factual support for its speculation, we dismissed it because our Office will not find improper agency action based on conjecture or inference. *Electra-Motion, Inc.*, B-229671, Dec. 10, 1987, 87-2 CPD ¶ 581 at 1; 4 C.F.R. 21.5(f).

inasmuch as HeiTech-PAE raises no challenges to the agency's evaluation of proposals under the facility clearance, recruitment and retention, and past performance factors, and as Brilliant was found to be both higher technically rated and lower-priced than HeiTech-PAE, we also find that HeiTech-PAE has not demonstrated that it was competitively prejudiced, as discussed below.⁴

Management Approach Evaluation of Brilliant

HeiTech-PAE protests the agency's evaluation of Brilliant under the management approach factor. Specifically, the protester alleges that the agency failed to recognize that Brilliant's proposed staffing approach was unrealistic and inadequate to successfully perform the contract. We find no basis on which to sustain the protest.

In reviewing a protest challenging an agency's evaluation of proposals, our Office will not reevaluate proposals nor substitute our judgment for that of the agency regarding a proposal's relative merits, as the evaluation of proposals is a matter within the agency's discretion. *Peraton, Inc.*, B-417088, B-417088.2, Feb. 6, 2019, 2019 CPD ¶ 190 at 5; *Del-Jen Educ. & Training Group/Fluor Fed. Sols. LLC*, B-406897.3, May 28, 2014, 2014 CPD ¶ 166 at 8. Rather, we will review the record to determine whether the agency's evaluation was reasonable and consistent with the stated evaluation criteria and applicable procurement statutes and regulations, and adequately documented. *Management Sys. Int'l, Inc.*, B-409415, B-409415.2, Apr. 2, 2014, 2014 CPD ¶ 117 at 5. A protester's disagreement with the agency's evaluation judgments, without more, is insufficient to establish that an evaluation was improper or lacked a reasonable basis. *Landmark Tech., Inc.*, B-408892, Dec. 19, 2013, 2013 CPD ¶ 295 at 5.

Here, the management approach factor consisted of multiple elements, or aspects, and included an assessment of the offeror's: (1) proposed staffing approach; (2) payroll and production data system; (3) approach to quality assurance and quality control; (4) overall management philosophy, approach, and strategy; (5) approach and strategy to managing unplanned, short-term surges in growth; (6) communication methodology; (7) draft transition-in plan; and (8) key personnel. RFP at 74-75. With regard to the staffing approach aspect of the management approach factor, the RFP stated:

The government will assess the offeror's staffing approach found in Attachment 3.5, "Price Schedule and Staffing Model" . . . , and whether the proposed staffing is realistic and adequate to meet the performance requirements in the PWS. As applicable, the Government will evaluate

⁴ In a footnote to its legal memorandum, the agency notes, as an aside, that in light of the fact that PAE was recently acquired by Amentum Government Services Holdings, LLC, "it's questionable if the protester, HeiTech-PAE, even still exists and is an interested party." Memorandum of Law (MOL) at 8 n.5. The agency, however, has not demonstrated facts sufficient to find that HeiTech-PAE is not an interested party to pursue its protest here. As such, we do not consider this issue further.

the adequacy and sufficiency of any alternatively proposed labor categories and staffing numbers.

Id. at 74.

The solicitation instructed offerors, as part of the management approach proposal submission, to complete the solicitation’s price schedule and staffing model worksheets. RFP at 66. Further, the RFP required proposals to include the proposed labor categories and level of effort for each labor category in their staffing plan; highlight and explain any proposed alternate or additional labor categories and/or levels of effort that differed from the agency’s estimates; and describe any assumptions used for developing the proposed staffing plan. *Id.*

The RFP’s pricing and staffing model set forth the agency’s estimated labor categories--e.g., General Clerk (GC) I, GC II, Shipper/Packer, Assistant Site Manager--and full-time equivalents (FTE) by ROC task and/or contract line item number (CLIN). AR, Tab 8a, RFP attach. 3.5, USCIS Pricing and Staffing Model at 2. Overall, the agency estimated a total of 1471.63 FTEs for the ROC’s baseline requirements, together with three possible growth options. *Id.* The agency’s estimated levels of effort also remained constant for all periods of performance. *Id.*

Brilliant, as part of its management approach proposal, set forth its proposed staffing plan. AR, Tab 14, Brilliant Proposal, Vol. II, Technical Proposal at 1-6; Tab 14a, Brilliant Proposal, Price Schedule and Staffing Model Worksheets at 1-24. The Brilliant staffing plan included the proposed labor categories and level of effort for each labor category; the proposal also explained those instances where Brilliant proposed alternate or additional labor categories and/or levels of effort that differed from the agency’s estimates. AR, Tab 14, Brilliant Proposal, Vol. II, Technical Proposal at 5-6.

The TEC, when evaluating Brilliant’s staffing approach (as well as that of HeiTech-PAE’s), considered the offeror’s proposed level of effort, first at the ROC task/CLIN level, and then overall, as follows:

	Base Year	Option Year 1	Option Year 2	Option Year 3	Option Year 4
Brilliant	1384.25	1372.64	1361.06	1349.59	1340.43
HeiTech-PAE	1421.78	1421.78	1345.39	1291.30	1259.69
USCIS Model	1471.63	1471.63	1471.63	1471.63	1471.63

AR, Tab 32a, TEC Report (Management Approach), Jan. 10, 2022, Staffing FTE Chart at 1-2, Tab 8a, RFP attach. 3.5, Pricing and Staffing Summary at 2.

The TEC also made other detailed findings regarding Brilliant’s staffing approach, as follows:

- the offeror proposes reductions to the overall staffing model.
- the offeror proposes removing certain [DELETED] positions, and replacing a portion with [DELETED] positions, in the change-of-address and file-maintenance task areas. The TEC finds this to be acceptable due to [DELETED]'s performing the less complex tasks and the use of premium pay incentives based on individual clerk production rates surpassing targeted goals.
- the offeror proposes the addition of a new [DELETED] position titled "[DELETED]" ([DELETED] FTEs) that would perform time studies, workflow analysis, root cause analysis, and support of new or revised processes. The TEC finds the inclusion of the [DELETED] position to be acceptable; however, the offeror also proposes removing [DELETED] lead positions from production teams (to eliminate potential staff confusion by designating supervisors to oversee production teams). Given the offeror will have [DELETED], the TEC has minor concerns that reducing the [DELETED]-to-production team ratio from [DELETED] to [DELETED] could produce a risk by not providing sufficient [DELETED] for production team support.
- the offeror proposes a new training and quality control structure which reduces total staffing by [DELETED] FTEs. The reduction in quality control staff was somewhat similar to the offeror's overall staffing reduction; therefore, the TEC does not believe this was a risk and was an acceptable deviation from the staffing model.
- the offeror retitles human resource (HR) lead to "[DELETED]," who would possess more expertise than an HR lead and therefore is able to reduce the FTEs from [DELETED]. The offeror retains the HR manager position. The TEC notes the reduction in total HR FTEs from [DELETED] FTEs to [DELETED] FTEs; however, the TEC determines that this was an acceptable staffing level for HR with the additional work absorbed by the [DELETED].
- the offeror proposes the addition of a [DELETED]. The [DELETED] would provide value to the agency by utilizing modeling and simulation tools to evaluate workloads and align resources.

AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 7-8.

Overall, with regard to Brilliant's staffing plan, the TEC found Brilliant's proposed addition of a [DELETED] to be a strength and its proposed replacement of [DELETED] positions [DELETED] to be a weakness. *Id.* at 11. The TEC also identified two additional strengths in non-staffing aspects of Brilliant's management approach (*i.e.*, "the offeror demonstrated a thorough process by which to perform root cause analysis," and "the offeror proposed to create pre-planned modeling simulations across several scenarios") and assigned the proposal a 'good' rating." *Id.*

As noted above, HeiTech-PAE argues that Brilliant's staffing plan was unrealistic and inadequate to successfully perform the ROC contract, and the agency's evaluation

thereof was unreasonable for having an “incomplete understanding” of the deviations and risks associated with Brilliant’s staffing approach.⁵ Protest at 23-34; Comments at 3-18. The agency responds that its evaluation of Brilliant’s proposed staffing plan was reasonable, and that the evaluators were fully aware of, and did consider, among other things, Brilliant’s staffing levels and deviations from the agency’s staffing model. MOL at 10-13; COS at 8-10.

We find no merit to HeiTech-PAE’s allegation that the agency misevaluated Brilliant’s proposal under the management approach factor. As a preliminary matter, the RFP established eight aspects to the management approach factor. HeiTech-PAE disputes the agency’s evaluation of Brilliant’s management approach under only one aspect, *i.e.*, staffing approach, but raises no challenges to the agency’s evaluation of Brilliant’s management approach in any of the remaining seven aspects of this evaluation criterion.⁶ Further, the record reflects the agency conducted a detailed analysis and comprehensively considered all aspects of Brilliant’s staffing approach. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 7-8; Tab 32a, TEC Report (Management Approach), Jan. 10, 2022, Staffing FTE Chart at 1-2. The protester, by contrast, essentially “cherry-picks” at discrete aspects of the awardee’s staffing that it considers shortcomings and ignores the fact that the staffing plan’s overall merit was a sum of all component parts. Lastly, even with regard to the selective portions of Brilliant’s staffing plan to which HeiTech-PAE highlights, the record reflects the agency fully recognized and reasonably considered these matters as well.

Here, the record reflects that the agency was fully aware of and reasonably considered the extent to which Brilliant’s staffing plan deviated from the agency’s staffing model, including the model’s estimated staffing levels; the agency also performed a similar analysis with regard to HeiTech-PAE. As illustrated by the table above, Brilliant proposed a total of 1384.25 FTEs in the base year as compared to the USCIS staffing model estimate of 1471.63 FTEs, a difference of approximately 6 percent. By comparison, HeiTech-PAE proposed 1421.78 FTEs in the base year, a difference of approximately 3.4 percent from the agency’s staffing model. By the last option year, however, Brilliant proposed a total of 1340.41 FTEs, a difference of approximately 8.9 percent from the agency’s staffing model, while HeiTech proposed a total of 1259.69 FTEs, a difference of approximately 14.4 percent from the agency’s staffing

⁵ The HeiTech-PAE protest here spends considerable effort focusing on the agency’s initial evaluation of Brilliant’s staffing plan. See Protest at 23-27. Our review, however, is limited to the reasonableness of the agency’s final evaluation.

⁶ Likewise, HeiTech-PAE does not dispute the two additional strengths identified by the TEC in the non-staffing aspects of Brilliant’s management approach. See Supp. Protest, *passim*.

model.⁷ In sum, Brillient's overall staffing reductions were more accelerated, but not as deep over time, as those proposed by HeiTech-PAE.

As the SSA noted when making the award decision, "by the final option period, Brillient has proposed a reduction of . . . about 43 FTEs from the start of performance compared to HeiTech-PAE who is proposing a reduction of about 162 FTEs from the start of performance." AR, Tab 34, SSDD at 8. The SSA, however, also considered Brillient's explanations for the firm's staffing level reductions and found that the awardee had adequately explained its deviations from the government estimate. *Id.* at 9. We, therefore, find no merit in HeiTech-PAE's assertions that the agency was unaware of, or failed to account for, the size of Brillient's staffing reductions. *CACI Enter. Sols., Inc.*, B-412648, B-412648.2, Apr. 25, 2016, 2016 CPD ¶ 111 at 9 (finding the evaluation of the awardee's proposed staffing reductions to be reasonable where the magnitude of the staffing reductions was realized by the agency, and the associated performance risk was found to be offset by other aspects of the offeror's management approach).

The record also reflects that the TEC was fully aware of, and reasonably considered, the extent to which Brillient's staffing mix deviated from the agency's staffing model. For example, the evaluators recognized that Brillient proposed replacing certain [DELETED] positions with [DELETED] positions in the change-of-address, and file-maintenance, task areas. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 7-8. The TEC found, however, that because the [DELETED] individuals would be performing less complex tasks and because Brillient has proposed the use of premium pay incentives based on individual clerk production rates surpassing targeted goals, this staffing mix replacement was acceptable. *Id.* As another example, the evaluators recognized that Brillient's new training and quality control structure reduced staffing by [DELETED] FTEs, but because this was somewhat similar to the offeror's overall staffing reduction, the TEC found this was not a risk or unacceptable deviation from the agency's staffing model. *Id.* While HeiTech-PAE argues the agency's acceptance of such staffing changes was unreasonable, see Comments at 7-15, we find this amounts to disagreement with the agency's evaluation judgments, which without more, provides no basis to sustain the protest. *General Dynamics Land Sys.*, B-412525, B-412525.2, Mar. 15, 2016, 2016 CPD ¶ 89 at 11.

Finally, the record reflects the TEC conducted a detailed analysis and comprehensively considered all aspects of Brillient's staffing approach. We have previously recognized that an offeror's staffing plan is not merely a function of its size, but how that staff is used. *Appalachian Council, Inc.*, B-256179, May 20, 1994, 94-1 CPD ¶ 319 at 7 ("The issue here . . . , was not which offeror proposed the largest staff, but how that staff was utilized"). Our decisions have also recognized that other aspects of an offeror's staffing plan that may be considered, in addition to size, include staffing mix (*i.e.*, skill sets, or

⁷ The agency's evaluation of offerors' staffing levels, including that of Brillient, also occurred at the ROC task/CLIN level (e.g., correspondence management, case preparation). AR, Tab 32a, TEC Report (Management Approach), Jan. 10, 2022, Staffing FTE Chart at 1-2.

labor categories), organization, training, development, employee performance incentives, and tools/resources. See, e.g., *Aurotech, Inc.*, B-413861.4, June 23, 2017, 2017 CPD ¶ 205 at 8; *Optimal Sols. & Techs.*, B-407467, B-407467.2, Jan. 4, 2013, 2013 CPD ¶ 20 at 14-15. Similarly, the record reflects that the agency's evaluation of Brillient's staffing approach was not simply a review of the number of FTEs proposed, but also considered how such individuals would be employed in relation to the tasks to be performed. For example, the agency considered Brillient's addition of a [DELETED] that would provide value by utilizing modeling and simulation tools to evaluate workloads and align resources. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 7-8; Tab 34, SSDD at 7-9. We find the agency's holistic consideration of Brillient's staffing plan to be reasonable. *Optimal Sols. & Techs.*, *supra* (finding evaluation of awardee's proposed staffing plan to be reasonable where the agency determined the staffing plan, taken as a whole, was adequate to perform the stated requirements, even if the staffing plan did not mirror the agency's staffing estimates). Again, while the protester disagrees with the agency's conclusions regarding the acceptability of Brillient's staffing approach, we find the evaluation was reasonable and consistent with the stated evaluation criteria, and provides no basis on which to sustain the protest.⁸ *General Dynamics Land Sys.*, *supra*.

Management Approach Evaluation of HeiTech-PAE

HeiTech-PAE also challenges the evaluation of its proposal under the management approach factor. Specifically, HeiTech-PAE alleges that the agency: (1) improperly failed to reconcile the reevaluation results with the earlier evaluation; (2) failed to identify various strengths; and (3) unreasonably assigned weaknesses to HeiTech-PAE's proposal. Protest at 13-23; Supp. Protest at 8-15. Contrary to the HeiTech-PAE's assertions, we find that: (1) the agency was not required to reconcile the results of its evaluation; (2) the missed strengths allegations are without merit; and (3) the protester fails to show that it was competitively prejudiced by the assigned evaluation weaknesses.

⁸ We also find no merit to HeiTech-PAE's assertion that the agency could not properly assign Brillient's proposal a rating of good under the management approach factor in light of the identified staffing approach weakness. Protest at 27-28. The RFP defined the good rating as "[t]he proposal demonstrates good service attributes for one or more aspects of the requirement. The proposal also demonstrates one or more good capabilities and there is a likelihood that the requirements will be exceeded. Strengths are proposed that will benefit the Government." RFP at 76. Nothing in the rating's definition, however, stated it could only be assigned if no weaknesses were found. Moreover, in contrast to HeiTech-PAE's focus on the assigned adjectival rating, the record reflects that based on the underlying evaluation findings, the SSA's properly determined that Brillient's management approach was superior to that of HeiTech-PAE's. AR, Tab 34, SSDD at 7-9. Thus, we find no basis to sustain HeiTech-PAE's protest. *InfoZen, Inc.*, B-408234 *et al.*, July 23, 2013, 2013 CPD ¶ 211 at 8.

Failure to Reconcile Evaluations

HeiTech-PAE first argues the management approach evaluation was improper because the agency did not reconcile the results of its reevaluation with the initial evaluation. The protester contends the evaluators, as part of the initial evaluation, identified three features of HeiTech-PAE's management approach as "beneficial" ones; however, as part of the reevaluation, the TEC did not again describe these features as beneficial. The protester also argues the SSA improperly failed to seek any explanation for these divergent evaluation results. Supp. Protest at 8-10, *citing eAlliant, LLC*, B-407332.6, B-407332.10, Jan. 14, 2015, 2015 CPD ¶ 229 at 11-12. As detailed below, we find no basis on which to sustain the protest.

The record reflects that the TEC, when initially evaluating HeiTech-PAE's management approach, identified no strengths, three weaknesses, and one deficiency, and rated the protester's proposal as unacceptable. AR, Tab 21, TEC Report (Management Approach), May 6, 2021, at 14-18. Relevant to the protest, the agency's initial evaluation also described three aspects of HeiTech-PAE's management approach--while not strengths--to be "beneficial" (e.g., the offeror's plan to balance workloads across multiple buildings would be beneficial to meet a workload surge). *Id.* at 17.

As part of its reevaluation, the agency utilized a new TEC consisting of two new evaluators (including a new chairperson) and one original evaluator. COS at 4. The new TEC, when reevaluating HeiTech-PAE's management approach, found one strength, five weakness, and no deficiencies, and rated the proposal as acceptable. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 15-19. Further, as part of the reevaluation, the TEC no longer described the same three aspects of HeiTech-PAE's proposal as "beneficial." See *id.*

While HeiTech-PAE contends that USCIS's evaluation here was *per se* unreasonable because it failed to reconcile the earlier evaluation findings, this argument is without a legal basis. Our Office has consistently stated that the mere fact that a reevaluation of proposals after corrective action varies from the original evaluation does not constitute evidence that the reevaluation was unreasonable, since it is implicit that a reevaluation can result in different findings and conclusions.⁹ See, e.g., *PAE Aviation and Tech. Servs., LLC*, B-417704.7, B-417704.8, June 8, 2021, 2021 CPD ¶ 293 at 9; *Hughes Coleman, JV*, B-417787.5, July 29, 2020, 2020 CPD ¶ 257 at 7 n.5; *MILVETS Sys. Tech., Inc.*, *supra*, at 6-7; *IAP World Servs., Inc.*, B-406339.2, Oct. 9, 2012, 2012 CPD ¶ 287 at 3-4. We have also generally found the argument that a reevaluation following corrective action was *per se* unreasonable because it was not reconciled with an earlier

⁹ In this regard, our Office has recognized that it is not unusual for different evaluators, or groups of evaluators, to reach different conclusions and assign different scores or ratings when evaluating proposals, since both objective and subjective judgments are involved. *MILVETS Sys. Tech., Inc.*, B-409051.7, B-409051.9, Jan. 29, 2016, 2016 CPD ¶ 53 at 7.

evaluation to be without legal or factual basis: this is because there is generally no requirement that an agency reconcile a later evaluation with an earlier one or explain why the evaluation changed.¹⁰ *Global Asset Techs., LLC*, B-416576.8, B-416576.9, Nov. 22, 2019, 2019 CPD ¶ 408 at 5; see also *AdvanceMed Corp.*, B-415360 *et al.*, Dec. 19, 2017, 2018 CPD ¶ 4 at 7. Quite simply, the overriding concern in our review is not whether an agency's final evaluation is consistent with an earlier evaluation, but rather, whether it is reasonable and consistent with the solicitation's stated evaluation criteria. See *Hughes Coleman, JV, supra*; *SRA Int'l, Inc.*, B-407709.5, B-407709.6, Dec. 3, 2013, 2013 CPD ¶ 281 at 11.

We also find HeiTech-PAE's reliance on our decision in *eAlliant* to be misplaced, as the record here does not reflect the sort of "starkly different" adverse evaluation results at issue in *eAlliant*. Essentially, as part of the reevaluation of HeiTech-PAE's management approach, the new TEC no longer described three non-strength aspects of HeiTech-PAE's proposal as "beneficial"; the evaluators also removed a previously-identified deficiency. We therefore find that the protester fails to demonstrate that the reevaluation of HeiTech-PAE's management approach was starkly different from the initial one, at least not in a way adverse to the protester. *Battelle Memorial Inst., supra*. In sum, based on the record here, we find there existed no requirement for the agency to reconcile the results of its management approach reevaluation, and the protester's assertion regarding the same provides no basis on which to sustain the protest.¹¹

Alleged Missed Strengths

¹⁰ One notable exception to our decisions addressing this issue is *eAlliant, LLC, supra*, where we deemed it incumbent upon an agency selection officer when confronted with adversely different evaluation results of essentially the same proposal, submitted by the same offeror, under the same solicitation, to seek some sort of explanation or otherwise arrive at an understanding of the basis for the different evaluation. *Id.* We have also subsequently stated that our *eAlliant* decision is limited to circumstances where the same SSA reviews "starkly different" evaluation conclusions of essentially the same proposal under the same solicitation, *Battelle Memorial Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 10, and the unique circumstance where the agency selection official was personally involved with reviewing proposals and affirmed specific conclusions about an offeror's proposal. *DevTech Sys., Inc.*, B-418273.3, B-418273.4, Dec. 22, 2020, 2021 CPD ¶ 2 at 19.

¹¹ HeiTech-PAE likewise argues the agency improperly failed to reconcile the results of the reevaluation of the protester's corporate experience, where the record reflects the TEC removed one strength and certain other "laudatory" language. Supp. Protest at 3-7; *compare* AR, Tab 18, TEC Report (Corporate Experience), Mar. 11, 2021, at 14-15, *with* AR, Tab 30, TEC Report (Corporate Experience), Dec. 14, 2021, at 15-16. Insofar as HeiTech-PAE again fails to demonstrate that the agency's reevaluation was starkly different from the initial one, we again find the protest to be without a legal or factual basis. *Global Asset Techs., LLC, supra*.

HeiTech-PAE also alleges that the agency's evaluation was unreasonable because it failed to identify various strengths in the protester's management approach. Supp. Protest at 9-15. Had the agency conducted a reasonable evaluation, the protester argues, it would have recognized the benefits within the firm's proposal and properly identified these aspects as strengths. *Id.* at 13. Although, we discuss several representative examples below, we have reviewed all of the protester's arguments and find no basis to conclude that USCIS violated applicable solicitation provisions or regulations, or that the evaluation was otherwise unreasonable.

For example, HeiTech-PAE claims that it deserved a strength for its proposed program manager. The PWS required, as minimum experience for this position, 10 years of project management experience with at least 5 years of experience in the government contract environment. PWS at 63. The TEC found that HeiTech-PAE's program manager met the experience requirements with 1 year of USCIS experience as an assistant site manager and 13 years of experience with the U.S. Navy. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 18.

HeiTech-PAE argues its proposal warranted a strength because the initial evaluation had found the program manager possessed 22 years of experience, which the TEC also identified as "beneficial." Supp. Protest at 9. The agency, in its report to our Office, explains that the protester's program manager, which the TEC reevaluation found possessed 13 years of "relevant" experience, met the minimum experience requirements and did not warrant a strength. MOL at 19. In its comments in response to the agency report, HeiTech-PAE does little more than restate its initial protest ground, and fails to show that its proposed program manager's experience actually exceeded the stated PWS requirements or otherwise deserved a strength. See Comments at 34-35. In sum, the protester fails to show that the agency's evaluation was unreasonable--only different from the initial evaluation--which does not provide a basis on which to sustain the protest. *PAE Aviation and Tech. Servs., LLC, supra.*

As another example, HeiTech-PAE alleges that USCIS improperly evaluated the firm's transition plan, and failed to identify it as a strength and a comparative technical advantage. Supp. Protest at 13. Specifically, the protester contends the agency applied an unstated evaluation criterion and "completely ignored" pertinent information in the transition plan regarding HeiTech-PAE's incumbent contractor advantage. *Id.* at 13-15.

The RFP established that, as part of the management approach evaluation factor, the agency would assess offeror's "draft transition[-]in plan to determine whether it provides an adequate strategy and is likely to be successful." RFP at 75. The TEC, when evaluating HeiTech-PAE's proposal, found it provided a realistic timeline and detailed roles and responsibilities to ensure effective transition. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 18. Relevant here, the TEC also found that HeiTech-PAE's transition plan did not contain any details on how the company would engage with current employees to "message transition." Because the evaluators found

HeiTech-PAE's transition plan did address how the firm would be able to quickly transfer "entry on duty" (*i.e.*, orientation) specialists, the agency, therefore, did not find the lack of employee messaging to be a weakness. *Id.*

HeiTech-PAE argues that as the RFP did not contain any requirement that offerors explain how they would "message transition" to existing employees, the agency applied an unstated evaluation criterion.¹² The protester also argues that its proposal "[made] plain that its incumbent staff are all in place and ready to perform should the [a]gency award HeiTech-PAE the contract."¹³ Supp. Protest at 14. The agency responds that: HeiTech-PAE "is not the incumbent [contractor], but its proposed major subcontractor [FCi] is" performing as the incumbent. Therefore, the agency expected there would be movement of employees between FCi and HeiTech-PAE, and thus, the agency's evaluation of the firm's transition plan was reasonable and consistent with the stated evaluation criterion. COS at 8; see MOL at 20-21. We agree with the agency.

We find the agency did not apply an unstated evaluation criterion as part of the evaluation of HeiTech-PAE's transition plan. Although agencies are required to identify in a solicitation all major evaluation factors, they are not required to specifically identify each and every element an agency considers during an evaluation. FAR 15-304(d). Rather, as a general matter, an agency properly may take into account specific, albeit not expressly identified, matters that are logically encompassed by or related to the stated evaluation criteria. *Peraton, Inc.*, B-417088, B-417088.2, Feb. 6, 2019, 2019 CPD ¶ 190 at 14; *Portage, Inc.*, B-410702, B-410702.4, Jan. 26, 2015, 2015 CPD ¶ 66 at 5-6. Here, inasmuch as the agency was evaluating the likelihood of success of the offeror's transition plan, the agency's consideration of such was not an unstated evaluation criterion because communicating with existing employees about how the transition from FCi to HeiTech-PAE would occur, is reasonably related to the likelihood of success of the protester's transition plan.

We also find no merit to HeiTech-PAE's assertion that the TEC overlooked or ignored features within the protester's transition plan that warranted the assignment of strengths. Much of HeiTech-PAE's argument, however, is premised on the erroneous claim that it is the incumbent ROC contractor. As noted above, FCi is the incumbent, not HeiTech-PAE. Although HeiTech-PAE proposed FCi as a major subcontractor, we find it reasonable for the TEC to have concluded as it did that there would nonetheless be personnel transitions between FCi and HeiTech-PAE, and that the protester's proposal failed to adequately address how contract transition would be communicated to current employees.

¹² The protester argues that although the lack of message transition was not assessed as a weakness, the agency would have otherwise assigned a strength to HeiTech-PAE's transition plan but for this identified shortcoming.

¹³ The record reflects that FCi Federal, Inc. (FCi), is the incumbent ROC contractor, and that HeiTech-PAE proposed FCi as a major subcontractor as part of its proposal here. AR, Tab 13, HeiTech-PAE Proposal, Vol. II, Technical Proposal, at 2; MOL at 20 n.17.

HeiTech-PAE also alleges that the agency unreasonably failed to identify the offeror's root cause analysis process as a strength. Supp. Protest at 10-13. Here, the protester contends the agency's conclusion that HeiTech-PAE had "only" proposed an acceptable process for employing root cause analysis overlooked pertinent information in the firm's proposal. *Id.* at 10. We disagree.

As relevant here, the RFP instructed offerors to respond to various ROC scenarios. RFP at 66. For Scenario 1, the RFP stated that the offeror's "company has achieved an 87% [acceptable quality level] AQL for the past three months, when the requirement is a 97% AQL" for the case preparation task. *Id.* The RFP also required offerors to explain how they would "address and rectify the unacceptable quality level[.]" *Id.* In turn, as part of the management approach evaluation factor, the RFP established that the agency would assess, among other things, the offeror's approach to quality assurance and quality control to ensure the work completed is of an acceptable quality level. *Id.* at 74.

The TEC, when evaluating HeiTech-PAE's response to Scenario 1, found the firm demonstrated an acceptable process for determining root cause for a failing AQL. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 16. The evaluators noted that the root cause analysis focused on clerical errors for which the firm indicated it would perform an in-depth process review, but what that review consisted of was not detailed in the proposal. *Id.*; MOL at 20. Further, HeiTech-PAE's plan to activate a "[t]iger [t]eam," composed of internal staff with briefings to corporate leadership, was found to be an industry-standard practice. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 16-17. Finally, the TEC also found that HeiTech-PAE proposed an acceptable plan to continue monitoring performance utilizing senior quality analysts. *Id.* at 17.

We find no merit in HeiTech-PAE's assertion that the agency overlooked information in the firm's proposal, or that the evaluation was otherwise unreasonable, when the evaluators did not assign a strength to HeiTech-PAE's root cause analysis process. Contrary to the protester's assertions, the record reflects the agency reasonably considered all aspects of HeiTech-PAE's approach to quality assurance and quality control, including its corrective action plan and root cause analysis process for a failing AQL. AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 16-17. The agency also reasonably determined that although HeiTech-PAE's root cause analysis solution referred to an overall process-level review, the detail included within HeiTech-PAE's proposal was limited to the analysis that would be performed at the individual, or clerical, level. *Id.* at 16; MOL at 20, *citing* AR, Tab 13, HeiTech-PAE Proposal, Vol. II, Technical Proposal at 6 (stating that "supervisor recreates the activity with a clerk to observe the clerk's performance"). In sum, the TEC reasonably concluded that HeiTech-PAE's root cause analysis solution was not deserving of a strength, and the protester's views to the contrary, does not make the agency's evaluation an

unreasonable one.¹⁴ *Ben-Mar Enters., Inc.*, B-295781, Apr. 7, 2005, 2005 CPD ¶ 68 at 7.

Management Approach Weaknesses

HeiTech-PAE also challenges the five weaknesses assigned to its management approach. Protest at 13-23. Here, the protester argues that the agency either ignored information contained in the firm's proposal, or reached unreasonable conclusions. HeiTech-PAE also contends that had the agency conducted a proper evaluation (and not found any weaknesses), HeiTech-PAE would have received at least a rating of good.¹⁵ *Id.* at 13. We need not decide the merits of HeiTech-PAE's protest here, however, because HeiTech-PAE fails to demonstrate that it was competitively prejudiced by the errors alleged.

Competitive prejudice is an essential element of a viable protest; where the protester fails to demonstrate that, but for the agency's actions, it would have had a substantial chance of receiving the award, there is no basis for finding prejudice, and our Office will not sustain the protest. *CACI, Inc.-Fed.*, B-418110.3 *et al.*, May 22, 2020, 2020 CPD ¶ 181 at 13; see *Statistica, Inc. v. Christopher*, 102 F.3d 1577 (Fed. Cir. 1996).

The record reflects that the SSA, when making the selection decision, found Brilliant's proposal to be both higher technically rated than HeiTech-PAE's proposal with regard to the management approach factor (good, as compared to acceptable) and the past performance factor (substantial confidence, as compared to satisfactory confidence), and lower-priced. AR, Tab 34, SSDD at 6-10. The SSA also identified various aspects

¹⁴ HeiTech-PAE also contends that the agency failed to identify two strengths in its corporate experience proposal, *i.e.*, the firm's innovative recruitment efforts, and its experience implementing process improvements. Supp. Protest at 7-8. The agency responds the new TEC recognized that both of HeiTech-PAE's corporate experience examples were for its major subcontractor, FCi, while the RFP had stated that "[o]fferors providing relevant corporate experience references for the prime offeror performing as a prime may be considered more likely to be successful than an offeror that only submits references pertaining to the work of a major subcontractor." MOL at 13-15, *citing* RFP at 74; see AR, Tab 30, TEC Report (Corporate Experience), Dec. 14, 2021, at 15-16; Tab 30a, TEC Report (Corporate Experience), Dec. 14, 2021, Corporate Experience Chart. Similarly, we find the evaluation to be reasonable and consistent with the stated evaluation criterion, and provides no basis on which to sustain the protest.

¹⁵ We note that, if the five weaknesses were removed, HeiTech-PAE would then have had one strength and no weaknesses. See AR, Tab 32, TEC Report (Management Approach), Jan. 10, 2022, at 18-19. Given the RFP's rating scheme, it is uncertain whether the HeiTech-PAE proposal would have been rated as good (*i.e.*, "[t]he proposal demonstrates good service attributes for one or more aspects of the requirement. . . .") or remained acceptable (*i.e.*, "[t]he proposal demonstrates only acceptable service attributes for most aspects of the requirement. . . ."). RFP at 76.

of Brilliant's proposal that reflected its technical superiority over HeiTech-PAE (in addition to superior past performance), including: adding a workload forecast specialist who will use modeling and simulation tools to evaluate workloads and efficiently align resources; a thorough process by which to conduct root cause analysis; a comprehensive corrective action plan; and the use of several software tools that will improve performance for the benefit of the government. *Id.* at 7. The record also reflects that when making the best-value determination between Brilliant and HeiTech-PAE, "no [price/technical] tradeoff is required." *Id.* at 9.

Even assuming HeiTech-PAE did not receive any management approach weaknesses, and even assuming HeiTech-PAE was assigned a rating of good, the protester would then be rated equal to Brilliant under the management approach factor, while remaining lower technically rated than Brilliant under the past performance factor--which the protester does not dispute--as well as higher priced by approximately \$50 million, or 13 percent. Again, no price/technical tradeoff would be required between Brilliant and HeiTech-PAE when making the best-value determination. *Epsilon Sys. Sols., Inc.*, B-414410, B-414410.2, Jun. 6, 2017, 2017 CPD ¶ 199 at 13-14 (finding that where the highest technically rated, lowest-cost proposal is selected for award, a cost/technical tradeoff is not required). In such circumstances, we find that HeiTech-PAE fails to establish it was prejudiced by the weaknesses assigned to its proposal under the management approach factor.

Best-Value Tradeoff Analysis

Finally, HeiTech-PAE argues the agency's best-value determination is flawed because of the underlying errors in the evaluation. Protest at 37-38; Supp. Protest at 17. As we have dismissed or denied all the protester's challenges to the agency's evaluation, we conclude that there is also no basis to challenge the resulting best-value determination. *U.S. Facilities, Inc.*, B-418229, B-418229.2, Jan. 30, 2020, 2020 CPD ¶ 65 at 8. Where, as here, the highest-rated, lowest-priced offer is selected for award, a price/technical tradeoff is simply not required. *Dell Servs. Fed. Gov't., Inc.*, B-412340 *et al.*, Jan. 20, 2016, 2016 CPD ¶ 43 at 7 n.6; *Alliance Tech. Servs., Inc.*, B-311329, B-311329.2, May 30, 2008, 2008 CPD ¶ 108 at 3.

The protest is denied.

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