441 G St. N.W. Washington, DC 20548 Comptroller General of the United States

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Decision

Matter of: TekSynap Corporation

File: B-419862.4; B-419862.5; B-419862.6

Date: July 12, 2022

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Jeremiah Kline, Esq., and Rebecca Bailey Jacobsen, Esq., Department of Commerce, for the agency.

Kenneth Kilgour, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's technical evaluation is denied where the evaluation was reasonable and consistent with the terms of the solicitation.

DECISION

TekSynap Corporation, of Reston, Virginia, protests the issuance of a task order to Alpha Omega Integration, LLC (AOI), of Vienna, Virginia, under request for proposals (RFP) No. 1332KQ20RNEEA0003, issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), for operations and maintenance services. The protester challenges the reasonableness of the agency's evaluation of technical proposals.

We deny the protest.

BACKGROUND

The RFP--a Small Business Administration (SBA) 8(a)¹ set-aside--was issued pursuant to the procedures in Federal Acquisition Regulation (FAR) subpart 16.5 to firms holding Chief Information Officer--Solutions and Partners 3 indefinite-delivery, indefinite-quantity contracts awarded by the National Institutes of Health. Agency Report (AR), Tab 8, Phase II RFP at 2. The RFP sought proposals to provide operations and maintenance support services for the National Environmental Satellite, Data, and Information Service (NESDIS) and the Office of Oceanic & Atmospheric Research headquarters systems. AR, Tab 6, RFP amend. 4. at 69. ² The contactor will be required to provide all personnel, equipment, supplies, facilities, transportation, tools, materials, supervision, and other items and non-personal services necessary to perform enterprise information technology services requirements as defined in the performance work statement (PWS). *Id.* The solicitation contemplated the issuance of a single fixed-price and time-and-materials task order, with a variable base period (dependent on the length of the transition) and four 1-year option periods.

The solicitation provided for issuance of the task order to the offeror whose proposal represented the best value to the government, considering price and the following five technical factors, listed in descending order of importance: technical approach--help desk; corporate experience; technical approach--other; management plan, staffing plan, and key personnel; and past performance. Phase II RFP at 37-38. The phase I evaluation would consider the first two evaluation factors: technical approach--help desk and corporate experience. Id. The phase II proposals would address the requirements for the remaining technical factors: technical approach--other; management plan, staffing plan, and key personnel; and past performance. Id. The RFP advised offerors that the agency would assess the proposals' strengths, significant strengths, weaknesses, significant weaknesses, deficiencies and risks under the five non-price evaluation factors and would assign each of those factors "an adjectival rating that facilitates the best value award decision." Id. The results of both phase I and phase II of the procurement would be considered in the overall evaluation of proposals and best-value tradeoff decision, where the five non-price factors, when combined, were

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¹ Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes SBA to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small business concerns. See 13 C.F.R. § 124.501(a) (SBA may enter into all types of awards, including contracts and orders). This program is commonly referred to as the 8(a) program.

² RFP amendment 4 represents the final version of the phase I solicitation. Contracting Officer's Statement at 3.

³ After evaluating the phase I proposals, the agency would provide offerors advisory notifications informing them "whether NOAA considers the Offeror[] to be a viable competitor, and if not considered a viable competitor, the basis for that opinion." *Id.* at 39. Notwithstanding the content of the notice, an offeror could elect to participate in phase II of the procurement. *Id.*

more important than price. *Id.* at 38-39. This protest concerns the agency's evaluation of phase II proposals and the subsequent award decision.

The protester and the intervenor were among six offerors to submit phase II proposals. See AR, Tab 13, Business Clearance Memorandum at 10-11. The table below summarizes the agency's evaluation of AOI's and TekSynap's proposals:

Factor	Offeror	
	AOI	TekSynap
Technical ApproachHelp Desk	Good	Acceptable
Corporate Experience	Acceptable	Good
Technical ApproachOther	Good	Acceptable
Management/Transition/Staffing Plans and Key Personnel	Good	Acceptable
Past Performance	Exceptional	Exceptional
Price	\$62,842,767	\$59,044,290

AR, Tab 12, Source Selection Decision (SSD) at 4-5.

The contracting officer's best-value tradeoff between the proposals of AOI and TekSynap compared the proposals' features under the five non-price factors. *See id.* at 16-20. The contracting officer's comparison of the two proposals found AOI's proposal "significantly technically superior" under three non-price factors: technical approach--help desk; technical approach--other; and management plan, transition plan, staffing plan, and key personnel. *Id.* at 20. The contracting officer found AOI's proposal "technically inferior" under the corporate experience factor, and the contracting officer considered the proposals "essentially equal" under the past performance factor. *Id.*

In summary, the contracting officer noted that AOI's proposal displayed "significant technical advantages in the non-price factors," while the "main technical advantage" of TekSynap's proposal was the protester's "previous corporate experience performing more stringent requirements." *Id.* The advantages offered by AOI's proposal included, but were not limited to: increased performance levels for call response and problem resolution; a [DELETED]; an ability for robust [DELETED]; [DELETED] methodology in the [DELETED]; and a [DELETED]. *Id.* Because AOI's "significantly superior technical proposal" was "well worth the price premium," the contracting officer determined that award to AOI was in the best interest of the agency. *Id.*

The source selection authority reviewed the offerors' technical and price proposals, the technical evaluation report, and the past performance evaluation report. *Id.* at 20-21. Based on that information, the source selection authority concurred with the contracting officer that AOI's proposal represented the best value to the agency, and the source selection authority issued the task order to AOI. *Id.* This protest followed.⁴

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⁴ This is the second contract award to AOI. TekSynap also protested the first award, and GAO dismissed that protest as academic when the agency elected to take

DISCUSSION

TekSynap challenges NOAA's evaluation under each of the technical factors except corporate experience, the one factor under which the protester's proposal was rated superior to AOI's. We considered all of the protester's assertions and found none to provide a basis on which to sustain the protest. We discuss below some of the protester's allegations, including all of the challenges to the first and most important technical factor, technical approach--help desk.

Technical Approach--Help Desk Factor

TekSynap challenges both weaknesses that the agency assessed the protester's proposal under this factor. TekSynap also challenges the agency's failure to award the protester's proposal numerous strengths. Lastly, TekSynap asserts that the agency unreasonably assessed AOI's proposal a significant strength. We discuss these allegations in turn and find no merit in them.

In reviewing a protest challenging an agency's evaluation of proposals in a procurement conducted in accordance with FAR subpart 16.5, our Office will not reevaluate proposals or substitute our judgment for that of the agency, as the evaluation of proposals is a matter within the agency's discretion. *22nd Century Techs., Inc.*, B-420139, Dec. 9, 2021, 2022 CPD ¶ 8 at 4. 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. *Id.* A protester's disagreement with the agency's judgment, without more, is insufficient to establish that an evaluation was unreasonable. *Id.*

Two Weaknesses Assessed to TekSynap's Proposal

The RFP required the contractor to respond within 30 minutes to 95 percent of help desk calls. Phase II RFP at 130. In a table of "initial recommended [service level agreements (SLAs)]," TekSynap's proposal stated that the protester would [DELETED]. AR, Tab 9a, TekSynap Technical Proposal at 13. The agency asserts that it reasonably assessed the protester's proposal a weakness for failing to propose an acceptable quality level (AQL) that met the RFP's requirement. Memorandum of Law (MOL) at 34.

TekSynap contends that the "Agency has offered no explanation for assessment of the weakness given that the portion of the proposal cited in assessing the risk is a mere recommendation that cannot be implemented without Agency approval." Comments

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corrective action. See TekSynap Corp., B-419862 et al., Aug. 16, 2021 (unpublished decision). Because the awarded value of the task order exceeds \$10 million, this protest is within our jurisdiction to consider protests of task orders placed under civilian agency indefinite-delivery, indefinite-quantity multiple-award contracts. See 41 U.S.C. § 4106(f)(1)(B).

and 2nd. Supp. Protest at 6. The recommended AQL posed no risk to contract performance, TekSynap argues, because it would not have been adopted without the agency's agreement. *Id.* The protester contends because there was no risk associated with this recommended AQL, the agency was precluded from assigning TekSynap's proposal a weakness. *Id.* Moreover, the protester asserts that the recommended AQLs were in addition to the solicitation's service level requirements, including the requirement to respond to 95 percent of help desk calls within 30 minutes. Protest at 10, *citing* AR, Tab 9a, TekSynap Technical Proposal at 11.

The agency contends that "TekSynap's proposal clearly provided" an SLA that fell short of what was required by the RFP. Supp. MOL at 19. The agency argues TekSynap's "assertion that a risk had to be identified in order [for the agency] to assign a weakness" to the protester's proposal is "unsupported." *Id.* The agency contends that the solicitation did not provide a definition for "weakness" and did not require a "risk" to be identified prior to the assessment of a proposal weakness. MOL at 13, *citing* Phase II RFP. Without disputing the agency's contention, the protester argues that "[t]his fact does not absolve the Agency of its responsibility to assess weaknesses reasonably and equally." Comments and 2nd. Supp. Protest at 6.

The record establishes that TekSynap's proposal contained an AQL that failed to meet the requirements of the solicitation. The protester's objections to the assessment of that weakness do not render the evaluation unreasonable.⁵

The agency assessed TekSynap's proposal a second weakness for proposing the use of a [DELETED] software defined network (SDN). AR, Tab 11, Technical Evaluation Report at 13. The protester's proposal included a chart describing TekSynap's help desk services strategy, and it contained this relevant language:

[DELETED]

AR, Tab 9a, TekSynap Technical Proposal at 10, excerpt from Figure 1: Team TekSynap Help Desk Services Strategy to Successfully Manage 2,000 Geographically Dispersed Users. The use of a [DELETED] SDN, the agency argues, would require the use of both [DELETED] software and hardware in order to operate, meaning that "TekSynap's proposed approach is to use a [DELETED]-specific hardware stack operated by [DELETED]-specific software." AR, Tab 11, Technical Evaluation Report at 13. This approach does not use "white box servers or switches" that are "non-brand name, lower cost hardware with similar functionalities." *Id.* Because "[DELETED] hardware does not permit the use of, or function with, non-[DELETED] or third-party

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⁵ TekSynap similarly asserts that a proposal weakness assessed under the technical approach--other factor was unreasonable, because the AQL that failed to meet the solicitation requirement was also "recommended." Comments and 2nd. Supp. Protest at 12. Again, the record provides no basis to find unreasonable the assessment of a weakness for proposing an AQL that failed to meet the RFP requirements.

software," the agency found that TekSynap's proposed approach "creates risk in functionality and increased costs based on vendor lock-in." *Id*.

TekSynap contends that its proposal's "parenthetical mention of the existing [DELETED] network did not state or imply that a [DELETED] SDN solution was exclusively being proposed." Comments and 2nd. Supp. Protest at 8. Rather, TekSynap argues, the "mention" was "a reference to the existing [DELETED] network identified in the PWS, just as the parenthetical reference to NexentaStor in the same sentence referenced the existing storage infrastructure." *Id.*, *citing* AR, Tab 9a, TekSynap Technical Proposal at 10.

As the agency notes, that "lone reference" states TekSynap's "[DELETED]." Supp. MOL at 21, *quoting* AR, Tab 9a, TekSynap Technical Proposal at 10. In other words, NOAA argues, TekSynap's proposal contains "clear language [that] discusses designing and implementing a Software Designed Network." Supp. MOL at 21 (emphasis omitted). NOAA contends that, while TekSynap's proposal "mentions various pieces of what may consist of white box servers and switches, Software Defined Networking, or Software Defined Storage," the protester's proposal "provides no single coherent description of TekSynap's approach." Supp. MOL at 21-22. The agency asserts that it reasonably interpreted TekSynap's proposal to mean that the protester would use a [DELETED] SDN to support a commodity-based hardware stack. Supp. MOL at 22.

Given the plain language of TekSynap's proposal--[DELETED]--we have no basis to object to the weakness NOAA assessed the protester's proposal for proposing the use of a [DELETED] SDN. This allegation is without merit.

Strengths Not Assessed to TekSynap's Proposal

The protester asserts that the agency failed to assign four strengths to TekSynap's proposal under the technical approach--help desk factor. An agency's judgment that features identified in a proposal did not significantly exceed the requirements of the RFP, and thus did not warrant the assessment of strengths, is a matter within the agency's discretion and one that we will not disturb where the protester has failed to demonstrate that the evaluation was unreasonable. *Protection Strategies, Inc.*, B-416635, Nov. 1, 2018, 2019 CPD ¶ 33 at 8 n.4. An agency is not required to document every aspect of its evaluation or explain why a proposal did not receive a strength for a particular feature. *American Electronics, Inc.*, B-419659, B-419659.2, May 25, 2021, 2021 CPD ¶ 218 at 4.

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⁶ In contrast, the agency asserts that AOI's proposal "discuss[ed] in detail [the awardee's] approach to support commodity based hardware stack." Supp. MOL at 22, *citing* AR, Tab 18a, AOI Technical Proposal at 11-12.

The protester argues that its proposal "should have gotten a strength or multiple strengths for its established relationship with the NOAA NSDesk." Comments and 2nd. Supp. Protest at 10. NOAA contends that it reasonably "did not assign a strength to TekSynap's experience and use of the NSDesk because the Solicitation required its use." Supp. MOL at 24. The protester contends that the agency unreasonably failed to assign TekSynap's proposal a strength for the "provision of a dedicated and NESDIS experienced [DELETED]." Comments and Second Supp. Protest at 10. Again, NOAA contends that the duties of the protester's proposed [DELETED] are solicitation requirements. Supp. MOL at 24, *citing* Phase II RFP at 71, 80. TekSynap asserts that NOAA failed to assess the protester's proposal a strength for proposing to leverage ISO 90018 "for quality management." Comments and 2nd. Supp. Protest at 11. NOAA argues that the failure to assign that proposal strength was reasonable because TekSynap "fails to provide any information or discussion in its Factor 1 [technical approach--help desk] proposal that TekSynap was proposing to use its ISO 9001 certification for quality management." Supp. MOL at 25.

The agency has provided a reasonable basis for its decision not to assess the protester's proposal any of these three strengths. While TekSynap disagrees with the agency's evaluation, the protester has not met its burden of demonstrating that NOAA's evaluation was unreasonable, and we find these allegations to be without merit.

Lastly, TekSynap argues that the agency failed to assess the protester's proposal a strength for providing [DELETED] when only [DELETED] support was required. Comments and 2nd. Supp. Protest at 11. Moreover, the protester contends that the agency's assessment of a strength in AOI's proposal for exceeding tier-level support requirements demonstrates disparate treatment of the offerors. *Id.* The agency argues that the protester has provided no citation to the solicitation in support of its contention that only tier-1 level support was required; NOAA asserts, in fact, that the RFP required the protester's proposed level of support. Supp. MOL at 25. Because we agree that the protester's proposal met, but did not exceed, the solicitation requirement, the agency reasonably did not assess TekSynap's proposal a strength. *See id.*

NOAA further argues that AOI's proposal contained [DELETED] support, which the protester's proposal did not, and the difference in proposals explains the difference in the evaluation. *Id.* at 26; see AR, Tab 18a, AOI Technical Proposal at 4-5 (noting that

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⁷ The agency explains that "[t]he NSDesk is NOAA's current Enterprise-wide ticket management system" that is "essentially a call center where tickets are created, queued, and distributed to the appropriate place for resolution." Supp. MOL at 24 n.12. According to the agency, the NSDesk can provide Tier 0/1 support for NESDIS issues, but because of security settings of NESDIS systems, any higher-level support is provided under the contract. *Id.*

⁸ ISO is the International Organization for Standardization, and the ISO 9000 "sets out the criteria for a quality management system." *See* https://www.iso.org/iso-9001-quality-management.html (last visited July 1, 2022).

"[DELETED]"). Where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the offerors' proposals. *United Support Servs., LLC*, B-417384, B-417384.3, June 18, 2019, 2019 CPD ¶ 222 at 6. Here, the record demonstrates that the differences in ratings may reasonably be explained by differences in the offerors' proposals, and this last allegation provides no basis on which to sustain the protest.

Significant Strength Assessed to AOI's Proposal

The protester challenges this significant strength that NOAA assessed AOI's proposal under the technical approach--help desk factor:

<u>Significant Strength</u> – In Vol. 1, p. 9, Section 1.2.3, AOI proposes to build infrastructure that utilizes [DELETED] alleviating [DELETED]. This approach shows that AOI has a commanding understanding and capacity to support commodity based hardware stack. Unlike traditional architecture that uses hardware that is [DELETED], which in turn creates [DELETED] and increases operation and maintenance costs for the Government, AOI's proposed commodity based hardware stack allows for [DELETED] which [DELETED] and allows for a more flexible design. Additionally, the proposed approach allows for [DELETED] as [DELETED], *i.e.*, simply [DELETED] instead of [DELETED]. AOI's approach is beneficial to the Government because it prevents [DELETED] of the infrastructure and lowers the cost of ownership throughout contract performance.

AR, Tab 11, Technical Evaluation Report at 6. TekSynap alleges that NOAA unreasonably assessed a significant strength to AOI's proposal under the technical approach--help desk factor because "AOI did not 'propose[] to build infrastructure that utilizes [DELETED] of [DELETED]." Comments and Supp. Protest at 3, *quoting* AR, Tab 11, Technical Evaluation Report at 6. Rather, the protester asserts, AOI's proposal "described the *existing* NOAA5006 infrastructure and stated generally that it 'recommend[s] [DELETED]." Comments and Supp. Protest at 3, *quoting* AR, Tab 18a, AOI Technical Proposal at 11. TekSynap contends that since AOI did not propose the solution that supports the significant strength, "[t]he Significant Strength [represents] the benefits not of AOI's proposal, but of the Agency's own decision to move toward a commodity-based hardware stack and away from [DELETED]. AOI's mere acknowledgement of this choice by the Agency, which was outlined in the Solicitation, cannot possibly justify a Significant Strength and a \$3.8 million price premium." Comments and Supp. Protest at 3.

AOI argues that the protester has misconstrued the basis for the significant strength that the agency assessed to the awardee's proposal. Intervenor's Comments on Supp. MOL at 5. AOI contends that in assessing the significant strength, NOAA found that the awardee's "approach shows that AOI has a commanding understanding and capacity to support commodity based hardware stack. . . . AOI's approach is beneficial to the Government because it prevents [DELETED] of the infrastructure and lowers the cost of

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ownership throughout contract performance." Intervenor's Comments on Supp. MOL at 5, *quoting* AR, Tab 11, Technical Evaluation Report at 4 (emphasis omitted). The plain language of the strength, AOI argues, indicates that the agency assessed it based on the awardee's demonstrated understanding of the requirement and a particular approach that benefits the agency "because it prevents [DELETED] of the infrastructure and lowers the cost of ownership throughout contract performance." AR, Tab 11, Technical Evaluation Report at 6. Understanding of a requirement, AOI asserts, "is indisputably a proper basis for assessing a strength." Intervenor's Comments on Supp. MOL at 5. Moreover, AOI argues that the phase II RFP specifically advised offerors that "the contractor's understanding of the requirements may be evaluated." *Id.* at 6, *quoting* Phase II RFP at 27 (emphasis omitted).

In summary, TekSynap contends that the agency's assessment of this significant strength was unreasonable because AOI's proposal only described NOAA's existing architecture and recommended a solution consistent with the solicitation's requirements. Yet the strength was assessed because the awardee's proposal demonstrated "commanding understanding and capacity to support commodity based hardware stack" and because AOI's "beneficial" approach "prevents [DELETED]" and "lowers the cost of ownership." AR, Tab 11, Technical Evaluation Report at 6. The record provides no basis on which to find that the significant strength was unreasonably assessed, and this allegation is denied.

Management Plan, Transition Plan, Staffing Plan and Key Personnel Factor

The protester argues that, in two instances, the agency disparately evaluated the proposals of the awardee and the protester under the management plan, transition plan, staffing plan and key personnel factors. As noted above, where a protester alleges unequal treatment in a technical evaluation, it must show that the differences in ratings did not stem from differences between the offerors' proposals. *United Support Servs., supra.*

The RFP required offerors to provide "[a] discussion addressing training opportunities for employees/subcontractors (if applicable), cross-training, maintaining the level of expertise, skills currency, and backup." Phase II RFP at 33. TekSynap argues that the agency unreasonably assessed AOI's proposal alone a strength for proposing a staffing strategy that focuses on [DELETED], which in turn reduces the risk of resource availability and of unsuccessful contract performance. Comments and 2nd. Supp. Protest at 13, *citing* AR, Tab 11, Technical Evaluation Report at 7. This was unreasonable, the protester argues, because: two of the [DELETED] identified in AOI's proposal were also proposed by TekSynap; although AOI proposed to team with an [DELETED], TekSynap proposed to team with the incumbent prime contractor; and TekSynap proposed "industry-leading [fringe] benefits." Comments and 2nd. Supp. Protest at 14.

The agency argues that only AOI's proposal presented a comprehensive plan to [DELETED]. See Supp. MOL at 8-9. NOAA noted that AOI's proposed "Staffing Plan"

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[DELETED] through [DELETED] and sustains program continuity of operations through a high degree of [DELETED]." *Id.* at 8, *quoting* AR, Tab 18c, AOI Technical Proposal at 9 (emphasis omitted). AOI's proposal recognized that [DELETED] "will create stress on the NIIS-II [NESDIS Integrated Information Services] Transition [DELETED] and puts continued operations at risk." Supp. MOL at 8, *quoting* AR, Tab 18c, AOI Technical Proposal at 12. AOI's proposal stated that the awardee's program manager "will prioritize at the moment of transition to eliminate this risk by using the [DELETED] to identify opportunities for [DELETED]." Supp. MOL at 8-9, *quoting* AR, Tab 18c, AOI Proposal Factor 4 at 12. Moreover, NOAA contends that AOI's proposal discussed the [DELETED] throughout its transition plan. Supp. MOL at 9, *citing* AR, Tab 18c, AOI Technical Proposal at 13-14.

The agency describes what it considers to be "marked differences between the content and extent of information in the proposals" regarding [DELETED]. Supp. MOL at 9. NOAA contends that, "[a]Ithough TekSynap's proposal mentions [DELETED], it does not prioritize those elements for the [DELETED]." *Id.* The agency argues that, unlike AOI's proposal, "TekSynap's proposal does not include any references to, or descriptions of, [DELETED], or an approach to identify and [DELETED]." *Id.* Relatedly, the agency argues that, although the protester favorably compares its proposed staffing plan to AOI's, "the actual strength is based on AOI's plan to identify and [DELETED]" and that "TekSynap's proposal did not contain a similar approach to ensure that the [DELETED] would be [DELETED] or addressed during contract performance." *Id.* at 10. Given the proposal differences, NOAA asserts that it reasonably assigned a strength to AOI's proposal, while not assigning a comparable strength to TekSynap's proposal. *Id.* The record supports the reasonableness of the agency's contention that the difference in ratings is attributable to differences in the proposals, and we deny this allegation.

TekSynap also alleges that the agency unreasonably assessed AOI's proposal a strength "for its minimal discussion of a [DELETED]," while not assessing TekSynap's proposal a comparable strength for its "comprehensive discussion of a proposed Quality Assurance Manager." Comments and 2nd. Supp. Protest at 15. TekSynap contends that, in contrast to AOI's proposal, the protester's proposal "provided detailed explanation about the roles, responsibilities, and benefits of having a Quality Assurance Manager." *Id.*

The RFP required the contractor to develop and submit a quality control plan (QCP) and to ensure quality control "in accordance with the approved QCP." Phase II RFP at 121. The solicitation required that "the Contractor shall develop and implement procedures specific to these requirements to identify, prevent, and ensure nonrecurrence of defective services." *Id.* As part of the proposal submission under the management plan, transition plan, staffing plan and key personnel factor, the solicitation required offerors "to demonstrate" how they would "approach quality assurance control measures" and to describe how they "will maintain adequate communication, as well as ensure satisfactory performance, accuracy, and quality of deliverables." *Id.* at 34.

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NOAA asserts that it reasonably assessed the awardee's proposal "a strength because 'AOI proposes a [DELETED] that will ensure problems with contract performance get identified early [which] lower[s] risk of unsuccessful contract performance." Supp. MOL at 11, *quoting* AR, Tab 11, Technical Evaluation Report at 8. NOAA contends that, "[b]ecause TekSynap did not propose a [DELETED] throughout the entire period of performance, like AOI did, NOAA found that AOI's proposal contained a benefit that was not stated or available in TekSynap's proposal." Supp. MOL at 12.

TekSynap does not contend that, like AOI, the protester proposed a [DELETED]. See Supp. Comments at 5-6. In fact, the protester's quality assurance manager "reports directly to" TekSynap's task monitor. AR, Tab 9c, TekSynap Technical Proposal at 14. The protester's proposed quality assurance manager is not included on TekSynap's proposed organizational chart. See id. at 16. In contrast, AOI's proposed organizational chart shows the [DELETED] as one of [DELETED] employees--including the [DELETED]--who report directly to the [DELETED], and all of whom are part of [DELETED]. AR, Tab 18c, AOI Technical Proposal at 6. The agency referred to the section of the awardee's proposal containing the organization chart when assessing AOI's proposal a strength for its [DELETED]. See AR, Tab 11, Technical Evaluation Report at 10, citing AR, Tab 18c, AOI Technical Proposal at 6. The record demonstrates that the agency's evaluation of the offerors' proposals was reasonable, where the differences in ratings stemmed from differences between the offerors' proposals.

Past Performance Factor

TekSynap asserts that no comparison could reasonably support the agency's determination that the proposals of TekSynap and AOI were "essentially equal" under the past performance factor. Comments on Supp. MOL at 6-7. NOAA's past performance evaluation rated both proposals exceptional for past performance. AR, Tab 22, Past Performance Evaluation at 18. As noted above, the source selection authority considered the two proposals to be "essentially equal" under the past performance factor. AR, Tab 12, SSD at 12-13.

As a general matter, our Office will examine an agency's evaluation of an offeror's past performance only to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations, because determining the relative merit or relative relevance of an offeror's past performance is primarily a matter within the agency's discretion. *Alliant SB CTA, LLC*, B-411842.6, Aug. 10, 2016, 2016 CPD ¶ 216 at 9.

The agency required offerors to provide relevant past performance references, which the phase II RFP defined as a contract value in excess of either \$40,000,000 total or \$4,000,000 annually. Phase II RFP at 35. The complexity of the work was defined as "Admin [local area network] architecture." *Id.* Past performance of contracts that were not fixed-price was preferred as more relevant to this hybrid fixed-price and time-and-materials effort. *Id.*

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The protester argues that it "performed work on higher value contracts and received higher ratings from its past performance references than AOI," and therefore "TekSynap's past performance proposal was objectively superior" to AOI's.

1. The agency argues that the RFP "did not require NOAA to provide 'extra credit' or 'extra relevancy' to past performance references that exceeded the stated size." Supp. MOL at 14. We agree. The protester's assertion that the agency failed to consider the relative size of the relevant past performance references is an untimely challenge to the RFP's terms, where the solicitation advised offerors that past performance references above a dollar value threshold would be considered relevant, without providing for a degree of relevance with regard to value.

4 C.F.R. § 21.2(a)(1); see Comments on Supp. MOL at 7. Accordingly, this allegation is dismissed.

Regarding the quality of the past performance ratings, NOAA contends that "TekSynap's protest compares past performance questionnaire ratings of AOI's less relevant contract with TekSynap's more relevant contract." Supp. MOL at 15. A more proper evaluation, NOAA argues, "would be comparing AOI's and TekSynap's past performance ratings under the more relevant contracts to each other and the ratings of the less relevant contract to each other." *Id.* In a comparison of the two most relevant past performance references for each offeror, AOI had the higher past performance ratings, NOAA notes. *Id.* at 14-15. AOI's past performance reference with the lowest quality ratings was for a fixed-price contract. *See* AR, Tab 22, Past Performance Evaluation at 3. The agency argues that it reasonably assigned less weight to this reference, given the preference in the RFP for other than fixed-price contracts. ¹⁰ *See* Supp. MOL at 16, *citing* Phase II RFP at 35. In response, the protester argues that the less relevant contracts should not be "wholly disregarded." Comments on Supp. MOL at 8. Comparing the least relevant past performance reference for each offeror, TekSynap's reference received higher ratings than AOI's, the protester argues. *Id.*

The protester has not demonstrated that the agency unreasonably found the two offerors' proposals essentially equal under the past performance factor. Both offerors provided past performance references that met the RFP threshold for relevance in terms of contract value. Considering all of the qualitative ratings for all of the past performance references, TekSynap's past performance had higher ratings than AOI's. Yet, as the agency argues, AOI's ratings were superior to TekSynap's for the two most relevant past performance references for each offeror. On this record, the protester's challenge to the reasonableness of the agency's past performance evaluation is denied.

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⁹ TekSynap does not assert that the awardee's past performance references failed to meet the RFP threshold for relevance. *See* Comments and 2nd. Supp. Protest at 18-19.

¹⁰ Importantly, this is how the agency conducted its past performance evaluation that reached the conclusion that the offerors' proposal were essentially equal under the past performance factor. See AR, Tab 12, SSD at 12.

The protest is denied.

Edda Emmanuelli Perez General Counsel

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