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## Decision

**Matter of:** Peraton, Inc.

**File:** B-420918.2; B-420918.3

**Date:** December 8, 2022

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### DIGEST

1. Protest that the agency unreasonably evaluated the protester’s proposal is denied where the record shows that the evaluation was consistent with the content of the firm’s proposal, and with the terms of the solicitation.
  2. Protest that the source selection authority failed to exercise her independent judgment is denied where the record shows that, even though she relied on other agency officials, the selection authority performed the tradeoff determination.
  3. Protest that the tradeoff determination was unreasonable is denied where the record shows that the selection authority’s comparisons were meaningful and reasonably based on the evaluation judgments.
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### DECISION

Peraton, Inc., the incumbent contractor, of Herndon, Virginia, protests the issuance of a task order to Leidos, Inc., of Reston, Virginia, under request for task order proposals (RFTOP) No. 28321322Q00000160, issued by the Social Security Administration (SSA) for information technology (IT) infrastructure support services. Peraton argues that the SSA unreasonably evaluated proposals, and improperly made the selection decision.

We deny the protest.

## BACKGROUND

On March 22, 2022, the SSA issued the RFTOP to procure IT infrastructure support services under the agency's multiple-award IT support services indefinite-delivery, indefinite-quantity contract. Agency Report (AR), Tab 2, RFTOP, amend. 2 at 1; Combined Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2-3.<sup>1</sup> Specifically, the selected contractor was to provide a broad range of IT services, including: integration and environment testing; information systems security administration and operations; and, national network services and operations. AR, Tab 3, RFTOP, Statement of Work (SOW) at 1.

The RFTOP contemplated the issuance of a hybrid task order contract to be performed over a 3-month base period, five-1-year option periods, and a 6-month extension period. RFTOP, amend. 2 at 9; AR, Tab 4, Summary of Award (SOA) at 2-3. The SSA would evaluate proposals in two phases. RFTOP, amend. 2 at 9-10. During the first phase, the agency would evaluate on a pass or fail basis offerors' identified conflicts of interest, and any applicable proposed mitigation plans. *Id.* at 10.

During the second phase, the agency would evaluate proposals under relevant experience and price factors, and then conduct a tradeoff determination. RFTOP, amend. 2 at 11. When describing their relevant experience, offerors were instructed to describe at least two, but no more than five, prior contracts where they performed similar requirements in terms of size, duration, and scope. *Id.* at 6. Further, when describing the scope of their prior performance, offerors were required to address ten different areas of performance including, for example, experience with cloud services management, and experience with data center replication. *Id.*

When submitting their price proposals, offerors were instructed to complete pricing tables. RFTOP, amend. 2 at 8. The pricing tables required offerors to provide labor rates for various labor categories, such as business operations specialists and database engineers. *Id.* at 18. The RFTOP advised that, when conducting the tradeoff determination, the relevant experience factor would be considered significantly more important than the price factor.<sup>2</sup> *Id.* at 11.

Only Leidos and Peraton submitted proposals prior to the April 8 close of the solicitation period. AR, Tab 4, SOA at 3. The agency's evaluation produced the following results:

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<sup>1</sup> Citations to the agency report reference the BATES page numbers provided by the agency when available.

<sup>2</sup> The RFTOP also advised that the "Government intends to award a single task order resulting from this solicitation." RFTOP, amend. 2 at 11.

	Relevant Experience	Total Price
Leidos	Exceptional	\$83,286,626
Peraton	Exceptional	\$108,921,209

*Id.* at 13.<sup>3</sup> When comparing Leidos’s and Peraton’s proposals, the agency noted that both offerors demonstrated equivalent, beneficial experience in ten different areas of performance. *Id.* at 14-21. For example, when comparing offerors’ experience providing cloud management services, the source selection authority noted that Leidos had experience designing, building, and maintaining private and public cloud platforms for mission critical applications, while Peraton similarly had experience providing highly scalable and easily consumed cloud services. *Id.* at 14-15. Ultimately, the source selection authority concluded that Leidos’s proposal offered the better value since, as noted, neither proposal had a technical advantage, and because Leidos’s proposed price was 24 percent lower than Peraton’s proposed price. *Id.* at 22.

After receiving its debriefing and learning that its proposal was unsuccessful, Peraton filed this protest with our Office.<sup>4</sup>

## DISCUSSION

Peraton raises numerous challenges to the agency’s conduct of the acquisition. First, Peraton argues its proposal was unreasonably evaluated under the relevant experience factor because the agency did not value its incumbent experience more highly. Second, Peraton argues that the source selection did not reasonably compare the proposals when conducting the tradeoff analysis.

Third, Peraton argues that the source selection authority did not exercise her independent judgment when issuing the task order to Leidos. Fourth, Peraton argues that the agency unreasonably made the responsibility determination because the agency did not consider Leidos’s low proposed price as evidence of the firm’s inability to perform.

We have reviewed all of the challenges, and conclude that none provide us with a basis to sustain the protest. To the extent we do not discuss a particular challenge, it is denied. At the outset, we note that, in reviewing an agency’s evaluation of proposals

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<sup>3</sup> For the relevant experience factor, the agency used an adjectival rating system consisting of the following: extremely similar, similar, slightly similar, and not similar. AR, Tab 4, SOA at 6-7. As relevant here, an adjectival rating of “extremely similar” means that the contractor’s relevant experience demonstrates extreme similarity in size, scope, and duration to the agency’s requirement. *Id.* at 6.

<sup>4</sup> This protest is within our jurisdiction to hear protests of task orders placed under civilian indefinite-delivery, indefinite-quantity contracts valued in excess of \$10 million. 41 U.S.C. § 4106(f)(1)(B).

and source selection decision, it is not our role to reevaluate submissions; rather, we examine the supporting record to determine whether the evaluation and decision were reasonable, consistent with the stated evaluation criteria, and adequately documented. *Innovative Mgmt. Concepts, Inc.*, B-408070.2, Dec. 4, 2013, 2014 CPD ¶ 49 at 3. A protester's disagreement with the agency's evaluation judgments, or with the agency's determination as to the relative merits of the competing proposals, does not establish that the evaluation or source selection decision were unreasonable. *Id.*

### Peraton's Technical Evaluation

Peraton argues that the agency unreasonably evaluated its technical proposal under the relevant experience factor. Protest at 21. Specifically, Peraton complains that the agency failed to appreciate the strength of the firm's relevant experience gained through its performance on the incumbent contract. *Id.* at 23-26. As evidence, Peraton points out that it has significant experience in all ten of the requisite areas of performance, including: migration of legacy systems, large-scale customized networking, and workflow automation. *Id.* at 25-26.

In response, the agency argues that it reasonably evaluated Peraton's proposal under the relevant experience factor. COS/MOL at 14. The agency explains that it assigned Peraton the highest adjectival rating of "[e]xtremely [s]imilar" because it examined Peraton's incumbent experience and determined that the firm had demonstrated favorable performance. *Id.* at 15.

As background, Peraton referenced two prior contracts as demonstrating relevant experience. AR, Tab 5, Tech. Evaluation Report (TER) at 15; Protest, exh. C.2, Peraton Tech. Proposal at 86-107.<sup>5</sup> One contract referenced the firm's incumbent experience, and the other contract referenced the firm's experience providing data center services to another federal agency. Protest, exh. C.2, Peraton Tech. Proposal at 86-107.

The SSA evaluated Peraton's referenced experience as being "[e]xtremely [s]imilar" to the instant acquisition. AR, Tab 5, TER at 15. The SSA identified Peraton's performance on the incumbent contract as demonstrating strengths in virtually every area of performance. *Id.* For example, the SSA noted that Peraton had demonstrated exceptional performance providing cloud services management, including providing [DELETED]. *Id.* at 18. Similarly, the SSA concluded that Peraton's other referenced contract also demonstrated strengths in multiple areas of performance. *Id.* at 16-17. In total, the SSA identified 18 strengths against zero weaknesses. *Id.* at 22.

On this record, we do not find the SSA's evaluation to be objectionable. While Peraton may argue that the evaluation was flawed because the agency failed to appreciate the

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<sup>5</sup> The exhibits attached to the protest were provided as a single file, and the exhibits are not separately paginated. As a result, for ease of reference, GAO uses the Adobe PDF page numbers for the entire file when referencing the exhibits.

firm's relevant experience, see Comments and Supp. Protest at 12-13, we simply do not find any evidence supporting that assertion. Instead, the record shows that the SSA reviewed Peraton's incumbent performance in significant detail, and noted how the firm's performance offered several benefits. See AR, Tab 5, TER at 15-22. Furthermore, we note that Peraton fails to articulate precisely how specific features of its experience were undervalued or overlooked. See Comments and Supp. Protest at 2, 12-15. Accordingly, we deny the protest allegation.<sup>6</sup>

### Reasonableness of Tradeoff Determination

Peraton argues that the agency unreasonably made the tradeoff determination. According to Peraton, the SSA unreasonably concluded that the proposals offered similar benefits from their respective experiences because the agency did not compare the relative merits of the proposals. Comments and Supp. Protest at 6-8, 15. The agency responds that it performed a thorough qualitative analysis, and made the tradeoff determination consistent with the terms of the solicitation. COS/MOL at 17.

As noted above, the SSA identified Leidos's proposal as representing the better value because both firms offered relatively similar benefits in terms of relevant experience, and Leidos proposed a lower price. AR, Tab 4, SOA at 22. Additionally, when conducting the tradeoff determination, the agency compared the firms' relevant experience in terms of size, duration, and scope. *Id.* at 13. In terms of size, the agency noted that both firms performed contracts similar in dollar value to the instant acquisition. *Id.* at 14. As for duration, the agency determined that both offerors'

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<sup>6</sup> As part of its protest, Peraton combines its challenge to its own technical evaluation with a separate challenge to Leidos's technical evaluation. In this regard, Peraton argues that Leidos's relevant experience was unreasonably evaluated as "extremely similar" because Leidos lacked incumbent experience. Protest at 21-22. The agency requests dismissal of this allegation, arguing that the allegation was speculative. Req. for Dismissal at 2. The protester responds that its allegation was supported by a declaration provided by one of its employees stating that only Peraton had experience providing the IT support in all areas of contract performance. Peraton's Resp. to Req. for Dismissal at 3.

We dismiss this allegation as speculative because it relies on conjecture. Our Bid Protest Regulations require that a protest include a detailed statement of the legal and factual grounds for protest, and that the grounds stated be legally sufficient. 4 C.F.R. § 21.1(c)(4), (f). A protest allegation which relies on speculation is legally insufficient because our Office will not find improper agency action based on conjecture or inference. *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 3. Here, the allegation is speculative because it is not supported by any concrete facts showing that Leidos lacked any performance supporting a favorable evaluation. Instead, the allegation is premised entirely on Leidos not being the incumbent contractor, which, without more, does not reasonably demonstrate that Leidos lacked any experience supporting the agency's evaluation.

referenced contracts demonstrated more than one year of performance as required by the solicitation. *Id.* at 21.

Regarding scope, the agency determined that both firms offered equivalent beneficial experience in every area of contract performance. AR, Tab 4, SOA at 14-21. For example, when comparing the firms' experiences providing cloud services management, the agency noted that Leidos had successfully designed, built, and maintained a private and public cloud platform for mission critical applications, and that likewise Peraton had provided network infrastructure for implementation of [DELETED]. *Id.* at 14-15. As another example, the agency determined that both firms possessed relatively equal experience providing automation services because Leidos's experience showed that the firm had provided fully automated on-premises private cloud services, and that Peraton's experience showed that the firm had successfully automated a particular function and, as a result, eliminated hundreds of hours of manual work. *Id.* at 15.

On this record, we do not object to the agency's tradeoff determination. Our review shows that the agency reviewed and compared the various benefits offered by both firms' demonstrated experiences. The record shows that the agency meticulously compared the firms' respective performance, and determined that both firms would be able to perform the requirement at a high level. Further, the record shows that the agency compared the specific tasks and functions completed, and concluded that the tasks and functions, while different, represented that the firms possessed equivalent underlying skillsets.

To the extent Peraton complains that it possessed better, more relevant experience, we do not find such argument provides us with a basis to sustain the protest. *See, e.g.*, Comments and Supp. Protest at 6 (complaining that Peraton possessed better experience with providing cloud services management because the experience was more specific and articulated [DELETED]). As discussed earlier, disagreement with the agency's evaluation judgments does not provide a valid basis for protest. Moreover, we do not find Peraton's allegation persuasive because it merely shows that the firms demonstrated their skillsets in different circumstances, but does not demonstrate that the agency's underlying determination (*i.e.*, that the firms possessed similar skillsets) was unreasonable. Accordingly, we deny the protest allegation.

#### Source Selection Authority's Independent Judgment

Peraton argues that the contracting officer, acting as the source selection authority, did not exercise her independent judgment because the SOA references the contract specialist as comparing proposals, as opposed to referencing the source selection authority's (*i.e.*, the contracting officer) determinations. Supp. Comments at 2-3. Peraton also points out that the SOA does not contain the contracting officer's signature, or any statement showing that the contracting officer reviewed the findings or exercised her independent judgment. Comments and Supp. Protest at 4-5.

In response, the agency explains that the contract specialist drafted the SOA, and that the contracting officer ultimately reviewed the draft SOA and relied on the findings therein to exercise her independent judgment. Supp. MOL at 4. The SSA points out that this procedure is consistent with Federal Acquisition Regulation (FAR) section 15.308, which provides that a source selection authority may delegate preparation of the selection decision to another agency official, and the source selection authority may use any document prepared so long as the document reflects her independent judgment. *Id.* at 4-5.

The SOA includes multiple references to the contract specialist as participating in the tradeoff determination and the qualitative comparisons. For example, when announcing the award decision, the SOA provides “the [contract specialist] determines that a task order award to Leidos, Inc. in the amount of . . . is in the best interest of the Government.” AR, Tab 4, SOA at 23. Additionally, the SOA shows that the contract specialist compared the proposals. *Id.* at 13 (“When compared to Peraton’s proposal, the [contract specialist] determined that Leidos and Peraton had similar experience under Factor 1 ‘Relevant Experience’ such that both proposals met or exceeded the terms of the solicitation and offered significant added benefits to the Government.”).

Significantly, however, the record also includes a broader reference to the agency as conducting the tradeoff analysis. Indeed, when explaining the tradeoff analysis, the SOA provides the following:

To conclude, *the agency* determines there is substantially less risk in issuing an award to Leidos, who in terms of impact to the agency, provides similar benefits at a significantly cheaper price when compared to Peraton.

AR, Tab 4, SOA at 22 (emphasis added). Furthermore, while this section explains the specific tradeoff analysis, it does not reference the contract specialist as the agency official who determined that Leidos and Peraton proposed technically similar solutions, or that Peraton’s proposal was not worth the 24 percent price premium. *Id.*

Additionally, the record contains declarations from the contracting officer and the contract specialist explaining how the SOA was prepared. The contracting officer explains that she assigned the contract specialist to draft the SOA, instructed the contract specialist on what comparisons and determinations to include in the SOA, and ultimately revised the SOA to reflect her best-value determination. Supp. AR, Tab 19, Decl. of CO at 2. Further, the contracting officer explains that she reviewed the SOA to ensure that the tradeoff determination reflected her independent judgment prior to making the award. *Id.*

Similarly, the contract specialist explains that she drafted the SOA at the direction and under the instruction of the contracting officer. Supp. AR, Tab 20, Decl. of Contract Specialist (CS) at 1-2. The contract specialist also confirms that she did not exercise

any independent authority, but rather included only the contracting officer's judgments and determinations. *Id.*

On this record, we do not find that the contracting officer failed to exercise her independent judgment. We have consistently recognized that agency selection officials have broad discretion in determining the manner and extent to which they will make use of technical and cost evaluation and comparison results in making their determination. *See Dewberry Crawford Grp.; Partner 4 Recovery*, B-415940.11 *et al.*, July 2, 2018, 2018 CPD ¶ 298 at 29. Our Office has explained that as long as the ultimate selection decision reflects the selection official's independent judgment, agency selection officials may rely on reports, analyses, and comparisons prepared by others. *See id.* at 29-30. Further, the fact that a selection official based a decision on the recommendations of other agency evaluators, without performing an independent review of all documentation, is insufficient to show that the decision did not represent the selection official's independent judgment. *Id.*

Here, the record shows that the contracting officer relied on the draft tradeoff determination prepared by the contract specialist. Supp. AR, Tab 19, Decl. of (Contracting Officer (CO) at 2; Supp. AR, Tab 20, Decl. of CS at 1. While the tradeoff determination may include narrative components showing the contract specialist's comparisons between Peraton and Leidos, we do not find that objectionable since the selection official may rely on other agency evaluator's reports and analysis in order to make an informed judgment. *See FAR 15.308; see also Latecoere Int'l, Inc.--Advisory Op.*, B-239113, B-239113.3, Jan. 15, 1992, 92-1 CPD ¶ 70 at 10 (explaining "there is no legal requirement that [a source selection authority] personally write the document that reflects the award selection decision").

Further, to the extent Peraton argues that the contracting officer did not participate in the selection decision, we are not persuaded. As noted above, the agency produced declarations from both the contracting officer and the contract specialist showing that the SOA was prepared at the direction and under the supervision of the contracting officer, and that the tradeoff determination reflects the contracting officer's independent judgment. Supp. AR, Tab 19, Decl. of CO at 2; Supp. AR, Tab 20, Decl. of CS at 1-2. We think that this explanation is consistent with the SOA because while the tradeoff analysis is based on the contract specialist's comparisons, it reflects a broader "agency" perspective. *See AR, Tab 4, SOA at 20.*

We also note that the record contains an email communication from the contracting officer to the contract specialist showing that the contracting officer had reviewed and commented on a draft version of the SOA prior to issuance of the task order. *See Supp. AR, Tab 29, Email from CO to CS at 1.* Again, this appears consistent with the SOA, which shows that the tradeoff analysis section relies on the contract specialist's comparisons but ultimately shows the contracting officer making her own determination on behalf of the agency. *See AR, Tab 4, SOA at 22.* Thus, we deny these protest allegations because the record shows that the contracting officer relied on the contract



specialist to draft the SOA and make comparisons, but ultimately conducted the tradeoff determination exercising her own independent judgment.

### Responsibility Determination

As a final matter, Peraton argues that the SSA unreasonably made a responsibility determination when the agency failed to consider whether Leidos's low proposed price impacted the firm's ability to perform the contract. Protest at 34-36. According to Peraton, the agency should have obtained additional evidence showing that Leidos could perform the contract at its proposed labor category rates. *Id.* at 35.

The agency requests dismissal of this allegation, arguing that its alleged failure to consider Leidos's submission of a low price, or even a below-cost offer, does not render the responsibility determination defective. Req. for Dismissal at 3-5. In response, Peraton repeats the argument that Leidos's low proposed labor category rates should have raised concern about the firm's ability to perform. Peraton's Resp. to Req. for Dismissal at 9-10.

Our Office will review a challenge to an agency's affirmative responsibility determination where the protester presents specific evidence that the contracting officer may have ignored information that, by its nature, would be expected to have a strong bearing on whether the awardee should be found responsible. 4 C.F.R. § 21.5(c). We therefore have reviewed circumstances such as: credible allegations that an agency failed to properly consider that a contractor committed fraud; allegations that principals of a contractor had criminal convictions; or, allegations that a contractor engaged in improper financial practices and improperly reported earnings. *Cargo Transport Sys. Co.*, B-411646.6, B-411646.7, Oct. 17, 2016, 2016 CPD ¶ 294 at 10-11.

Here, we agree with the agency that Leidos's alleged submission of a below-cost offer does not meet our threshold to review the responsibility determination. See *M-Cubed Information Sys., Inc.*, B-284445, B-284445.2, Apr. 19, 2000, 2000 CPD ¶ 74 at 9-10 (allegation that agency should have considered protester's alleged below-cost offer as part of the responsibility determination did not meet our threshold for review). Indeed, our Office has explained that the submission of a below-cost offer is not in itself legally objectionable, and does not, by itself, cast any doubt upon the reasonableness of the responsibility determination. *Atlantic Maintenance, Inc.*, B-239621, B-239621.2, June 1, 1990, 90-1 CPD ¶ 523 at 1. Accordingly, we dismiss the protest allegation.

The protest is denied.

Edda Emmanuelli Perez  
General Counsel