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Decision

Matter of: Octo Consulting Group, Inc.

File: B-420988; B-420988.2

Date: November 30, 2022

Damien C. Specht, Esq., James A. Tucker, Esq., and Victoria Dalcourt Angle, Esq., Morrison & Foerster LLP, for the protester.

Mark B. Grebel, Esq., and Kenneth W. Sachs, Esq., National Geospatial-Intelligence Agency, for the agency.

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DIGEST

1. Protest that agency unreasonably evaluated protester's technical proposal is denied where the record shows that the evaluation was reasonable and consistent with the solicitation.
 2. Protest of agency's price evaluation is denied where protester has not shown that the evaluation was inconsistent with the solicitation or applicable regulations.
 3. Protest that agency failed to meaningfully consider all evaluation factors when establishing competitive range is denied where the record reflects that agency's competitive range determination was reasonable and consistent with the solicitation.
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DECISION

Octo Consulting Group, LLC, of Reston, Virginia, protests the exclusion of its proposal from the competitive range under request for proposals (RFP) No. M0476-21-R-0036, issued by the Department of Defense, National Geospatial-Intelligence Agency (NGA), for geospatial-intelligence search and retrieval (GSR) services. The protester argues that NGA misevaluated Octo's proposal and made an unreasonable competitive range determination.

We deny the protest.

BACKGROUND

On November 15, 2021, the agency issued the solicitation to obtain support services for NGA's GSR information technology (IT) system. Contracting Officer's Statement and Memorandum of Law (COS/MOL) at 2; Agency Report (AR), Tab A.1.a, RFP at 2.¹ Under the RFP, the selected contractor would be required to maintain, support, and enhance NGA's current GSR IT system, as well as develop new capabilities for the system. AR, Tab A.2.b, RFP attach. J-01, Statement of Work (SOW) at 5.

The RFP contemplated the award of an indefinite-delivery, indefinite-quantity contract with an ordering period of five years and a maximum contract value of \$88,247,500. RFP at 5. The solicitation provided that award would be made to a responsible offeror on a best-value tradeoff basis considering the following six factors: (1) technical/management; (2) past performance; (3) security; (4) small business participation; (5) intellectual property; and (6) price. *Id.* at 24, 26. The technical/management factor was comprised of three subfactors in decreasing levels of importance: overall technical approach; agile development management plan; and overall management approach. *Id.* at 26.

With respect to the relative importance of the various factors, the RFP stated that the technical/management factor was significantly more important than past performance, which was more important than small business participation, which was more important than intellectual property. *Id.* The security factor was to be evaluated on a pass/fail basis, and the RFP advised that a proposal that receives a rating of fail for the security factor will not be considered for award. *Id.* at 27. The non-price factors when combined, except security, were significantly more important than price. *Id.*

The RFP informed offerors that if the government determines that discussions are in its best interest, it will make a competitive range determination in accordance with Federal Acquisition Regulation (FAR) section 15.306(c). *Id.* at 25. The competitive range would only include those proposals that are most highly rated after initial evaluation. *Id.*

The agency received eight proposals in response to the solicitation, including one from Octo. AR, Tab D.1, Source Selection Evaluation Board (SSEB) Consolidated Evaluation Report at 3-4. Following initial evaluations, the agency concluded that discussions were necessary to obtain the best value for the government. The agency therefore established a competitive range of the two highest rated proposals. AR, Tab E.1, Competitive Range Determination at 7. Octo's proposal was not determined to be among the highest-rated proposals and thus was eliminated from the competitive range. *Id.* at 12-13, 19. The results of the agency's initial evaluation of Octo's proposal and the proposals of the two offerors included in the competitive range were as follows:

	Octo	Offeror A	Offeror B
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¹ The RFP was amended once. See AR, Tab A.2.a, RFP amend. 1. In the remainder of this decision, citations to the RFP refer to the amended RFP provided at Tab A.2.a. of the agency report.

Technical/Management	Acceptable	Outstanding	Outstanding
Overall Technical Approach	Acceptable	Outstanding	Outstanding
Agile Development Management Plan	Good	Good	Good
Overall Management Approach	Good	Good	Good
Past Performance	Substantial Confidence	Substantial Confidence	Substantial Confidence
Security	Fail	Pass	Pass
Small Business Participation	Good	Marginal	Marginal
Intellectual Property	Low Risk	Low Risk	Low Risk
Total Evaluated Price	\$62,605,469	\$82,158,950	\$36,957,399
Task Order 0001	\$45,073,270	\$74,858,269	\$33,452,464
Sample Task Order 0002	\$17,532,199	\$7,300,680	\$3,504,935

Id. at 6-7.

The agency noted that Offerors A and B were included in the competitive range “based on initial ratings, including the intensity of the strengths, weaknesses, and deficiencies of each Offeror in relation to the relative order of importance” of the factors and subfactors as described in the RFP. *Id.* at 7. Where proposals contained “weaknesses, deficiencies, and other issues,” the agency also considered “the extent to which they could reasonably be addressed through discussions.” *Id.* Specifically, for Offeror A’s proposal, the agency assessed a rating of outstanding with no weaknesses or deficiencies under the most important technical/management factor. *Id.* For Offeror B’s proposal, the agency assessed a rating of outstanding under the technical/management factor with the sole weakness in the least important subfactor of overall management approach, which the agency concluded could reasonably be addressed through discussions. *Id.* at 9-10.

In deciding to exclude the protester from the competitive range, the agency noted that Octo’s proposal received a rating of acceptable under the technical/management factor. *Id.* at 12. After evaluating Octo’s proposal under each factor, the agency concluded that, overall, Octo’s proposal “failed Security and its technical/management proposal was just found to have met the requirements with an adequate approach and understanding.” *Id.* at 13. Based on this conclusion, the agency decided that Octo’s proposal “does not present the strengths within the technical/management approach that are advantageous” and that, through discussions, “its overall proposal would not [be] competitive for award among the most highly rated Offerors.” *Id.*

On August 1, the agency notified Octo that its proposal has been excluded from the competitive range. Protest, exh. A, Exclusion Notice at 1. After receiving a debriefing, Octo filed this protest.

DISCUSSION

Octo challenges several aspects of the agency's evaluation and resulting competitive range determination. The protester first contends that the agency's evaluation of its technical proposal was unreasonable. Protest at 7-14. Octo also argues that the agency's price evaluation was flawed for the two proposals included in the competitive range. Comments and Supp. Protest at 24-27. With respect to the agency's competitive range determination, Octo asserts that the agency ignored all evaluation factors other than the technical/management factor, failed to consider price, and treated the offerors disparately in determining which proposal aspects could be improved through discussions. Protest at 14-15; Comments and Supp. Protest at 2-12, 19-23.

Where a protester challenges an agency's evaluation of an offeror's proposal and its decision to exclude a proposal from a competitive range, we first review the propriety of the agency's evaluation of the proposal, and then turn to the competitive range determination. *Enterprise Servs., LLC*, B-414513.2 *et al.*, July 6, 2017, 2017 CPD ¶ 241 at 6. We note that the determination of whether a proposal is in the competitive range is principally a matter within the contracting agency's discretion. *Advanced Software Sys., Inc.*, B-414892.2 *et al.*, Jan. 7, 2019, 2019 CPD ¶ 51 at 3. Our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *Enterprise Servs., LLC*, *supra*. An agency is not required to include a proposal in the competitive range when the proposal is not among the most highly-rated proposals. FAR 15.306(c)(1).

We have considered all of the allegations raised by Octo and, although we do not discuss them all, we find no basis to sustain the protest. Below, we discuss Octo's principal contentions.

Technical Evaluation

Octo contends that the evaluation of its proposal under the technical/management factor was unreasonable. In this regard, Octo argues that the agency unreasonably assessed a slight strength where a moderate or significant strength was warranted, unreasonably failed to assess a strength, and unreasonably assessed a moderate weakness. Protest at 8, 10-14.² We find no basis to sustain these allegations.

² Octo initially challenged the agency's assessment of a number of other slight strengths and weaknesses, and also argued that its proposal warranted a number of additional strengths under the technical/management factor. Protest at 7-10, 12. The agency substantively responded to each of these challenges. See COS/MOL at 23-28. Rather than rebutting each of the agency's responses in its comments, the protester states that it will "maintain its challenge with respect only to two strengths that should have been assessed." Comments and Supp. Protest at 15. Therefore, we consider those other

In assigning a rating of acceptable under the most important subfactor (overall technical approach), the evaluators found that Octo's proposal demonstrated an "adequate approach and adequate understanding of the requirements" with four slight strengths, two meets standards, and one slight weakness. AR, Tab C.1, Octo's Technical Evaluation Report at 5. As relevant here, one of the four slight strengths was assessed for Octo's proposed vendor partnerships that "include members with first-hand knowledge of GSR [DELETED], experience [DELETED] GSR [DELETED], and experience facilitating [DELETED]." *Id.* at 6.

The protester argues that when the agency assigned a slight strength for the relevant first-hand knowledge and experience of its proposed vendor partnerships, the agency failed to also consider the relevant first-hand knowledge and experience of Octo itself. Protest at 8; Comments and Supp. Protest at 15-16. Octo contends that had the agency considered Octo's first-hand knowledge and experience as the incumbent subcontractor currently performing the requirements, the agency would have found this proposal aspect merited a significant strength. *Id.* The agency responds that it duly considered Octo's first-hand knowledge and experience and reasonably found that this proposal aspect warranted a slight strength. COS/MOL at 22; Supp. COS/MOL at 3.

The record supports the agency's contention that it considered the first-hand knowledge and experience of Octo as the incumbent provider of the GSR services. While the evaluation describes the slight strength as assessed for Octo's "strategic partners," the evaluation goes on to list "[a] few of the key partners." AR, Tab C.1, Octo's Technical Evaluation Report at 6. Significantly, the list includes Octo as the first of the "key partners" considered, describing it as the "Lead provider on GSR task order (TO) 3 extension and responsible for [DELETED]% of contributions to [DELETED] central to [Yorktown II] architecture." *Id.* Based on this information, the evaluators concluded as follows:

Impact: The Offeror's proposed vendor partnerships offering direct and current knowledge of the program, along with GSR enterprise integration services expertise will reduce the learning curve and ensure mission continuity. This is slightly advantageous to the Government during contract performance.

Id. at 6-7.

On this record, we find no merit to the protester's contention that the agency failed to consider Octo's first-hand knowledge in assessing this slight strength. To the contrary, the record demonstrates that the agency unequivocally considered Octo's "direct and current" knowledge and experience as the basis for assessing the slight strength for this proposal aspect. To the extent Octo argues that this aspect of its proposal merits a

protest arguments abandoned or withdrawn and we will not consider them further. *Booz Allen Hamilton Inc.*, B-414283, B-414283.2, Apr. 27, 2017, 2017 CPD ¶ 159 at 5 n.9.

significant strength rather than a slight strength, we find its argument to be nothing more than disagreement with the agency's reasoned judgment. See *Trilogy Federal, LLC*, B-418461.11, B-418461.18, Feb. 23, 2021, 2021 CPD ¶ 144 at 5 (A protester's disagreement with the agency's judgment, without more, is not sufficient to establish that an agency acted unreasonably.).

Next, the protester contends that the agency unreasonably failed to assess a strength for Octo's approach to independent verification and validation (IV&V) and deployment. Protest at 10-11. Specifically, Octo asserts that its proposal demonstrated "deep knowledge and understanding" of the agency's security and IV&V process and an approach "specifically tailored to overcome [DELETED]." *Id.* at 10. Octo also claims that its approach "improves deployment cycle time" under SOW section 6.1.2 and reduces risk to the software release cycle by "ensuring the [DELETED] are not pulled away from the development cycle to support IV&V or deployments." *Id.* at 10-11. Based on these assertions, the protester argues that the agency should have assessed an additional strength for this aspect of Octo's proposal. *Id.*

The agency responds that it reasonably did not assess a strength for this proposal aspect because Octo's approach to IV&V did not exceed requirements. COS/MOL at 26. In this respect, the agency provided a declaration from the technical evaluation team lead disputing each advantage Octo claims to have demonstrated in its approach to IV&V. AR, Tab F.1, Declaration of Technical Evaluation Team Lead at 7-8. For example, the team lead disputes the protester's assertion that Octo's approach improves deployment cycle time, noting that Octo proposed four deployments per year based on the RFP's instructions. *Id.* at 8; see AR, Tab B.7, Octo Technical Proposal at 3. While the protester responds that it was proper to follow the RFP's instructions, it does not explain how proposing four deployments per year as directed by the RFP "improves deployment cycle time." See Protest at 10. In addition, the team lead states that the evaluation team considered the approach of ensuring that [DELETED] are not pulled away from the development cycle to be a standard practice for meeting the requirements. AR, Tab F.1, Declaration of Technical Evaluation Team Lead at 8.

Based on this record, we find the agency's evaluation reasonable. To the extent Octo contends that its approach to IV&V exceeded the solicitation requirement, we find the contention not supported by the record. Once again, a protester's disagreement with the agency's judgment, by itself, is not sufficient to establish that an agency acted unreasonably. See *Trilogy Federal, LLC, supra*.

Octo also challenges the moderate weakness assessed to its proposal, under the overall management approach subfactor, for failing to propose sufficient staffing levels for software maintenance work under task order 0001. Protest at 12-14. The protester argues that its proposed staffing levels were sufficient based on the work Octo was currently performing as the incumbent subcontractor. *Id.* The protester asserts that the agency failed to consider this rationale, which Octo provided as part of its proposal. *Id.*

The agency responds that the moderate weakness was warranted because the RFP's software maintenance requirements were broader in scope than the work under the incumbent task order and encompassed four types of maintenance--corrective, preventative, adaptive, and perfective--over a 5-year period. COS/MOL at 28-29; see RFP at 22; AR, Tab A.2.b, RFP attach. J-01, SOW at 11-15; Tab A.1.n, RFP attach. L-10, Task Order (TO) 0001 Performance Work Statement (PWS) at 5. Noting that Octo proposed approximately [DELETED] full-time equivalents (FTE) for this work, the agency found this proposed level of staffing to be insufficient "to effectively sustain and maintain the current GSR operational software baseline, while also evolving it by delivering user requested capability enhancements at an optimal rate of execution." AR, Tab C.1., Octo's Technical Evaluation Report at 16. The evaluators also found that Octo's staffing approach did not reflect the expectation of accomplishing the four types of software maintenance simultaneously. *Id.*

Although the protester complains that the solicitation did not clearly indicate that the required software maintenance work exceeded the current levels, see Comments and Supp. Protest at 17, we note that the solicitation also did not state that the baseline level of work would be the same as the current levels. Instead, the solicitation set out the requirements in the statement of work and instructed offerors to propose staffing to meet those requirements. See RFP at 22; AR, Tab A.2.b, RFP attach. J-01, SOW at 11-15; Tab A.1.n, RFP attach. L-10, TO 0001 PWS at 5. The protester has failed to offer any support for its contention that the scope of work was unclear or required the same level of effort as Octo was currently performing under the incumbent task order.

On this record, we find no basis to question the reasonableness of the agency's conclusion that Octo's proposal of [DELETED] FTEs was insufficient and represented a moderate weakness. To the extent the protester disagrees and contends that its proposed staffing could perform the requirements, we find such an argument to be disagreement with the agency's reasoned judgment, which does not constitute a basis to sustain the protest. See *Trilogy Federal, LLC, supra*.

Accordingly, we deny the protester's challenges to the agency's technical/management evaluation.

Price Evaluation

The protester next challenges the agency's price evaluation of the two offerors included in the competitive range. Specifically, Octo contends that the agency performed an inadequate price reasonableness analysis on Offeror A's price and failed to evaluate Offeror B's professional compensation plan as required by the solicitation. Comments and Supp. Protest at 24-27. The agency responds that its price evaluation was consistent with the solicitation and applicable procurement laws and regulations.³

³ Relying on our decision in *ICI Services Corp.*, B-418255.4, Sept. 23, 2020, 2020 CPD ¶ 302, the agency also argues that the protester cannot properly challenge the inclusion

Supp. COS/MOL at 13-15. We find no basis to sustain Octo's challenges to the agency's price evaluation.

Price Reasonableness

Octo argues that the agency's price reasonableness analysis was unreasonable because the agency did not meaningfully compare the offerors' prices to one another. Comments and Supp. Protest at 24-25. The protester contends that it was unreasonable for the agency to conclude that Offeror A's proposed price was reasonable when it was more than double the price proposed by the lowest-priced offeror. *Id.* The protester also contends that the agency ignored the results of its own price analysis when it concluded that Offeror A's price was reasonable. Supp. Comments at 9-15.

The agency responds that its analysis was reasonable because each offeror's proposed price was compared to the mean of all price proposals received, using a standard deviation methodology, and this analysis was sufficiently documented. Supp. COS/MOL at 13-14. To the extent Octo argues that some of Offeror A's proposed rates and contract line item number (CLIN) prices were unreasonably high, the agency responds that it reasonably exercised its discretion when it concluded that those higher-priced elements could be addressed through discussions. *Id.*

A price reasonableness determination is a matter of administrative discretion involving the exercise of business judgment by the contracting officer that we will question only where it is unreasonable. *AAR Airlift Group, Inc.*, B-414690 *et al.*, Aug. 22, 2017, 2017 CPD ¶ 273 at 9. The FAR permits the use of various price analysis techniques and procedures to ensure fair and reasonable prices, including the comparison of proposed prices received in response to the solicitation to each other or to an independent government estimate. FAR 15.404-1(b)(2); *Comprehensive Health Servs., Inc.*, B-310553, Dec. 27, 2007, 2008 CPD ¶ 9 at 8. The depth of an agency's price analysis is a matter within the sound exercise of the agency's discretion, and we will not disturb such an analysis unless it lacks a reasonable basis. *Advanced Sys. Tech. & Mgmt., Inc.*, B-291529, Dec. 20, 2002, 2002 CPD ¶ 219 at 2.

of other offerors in the competitive range. Supp. COS/MOL at 4. The agency's reliance on that decision, however, is misplaced here. In *ICI Services Corp.*, we concluded that our Office will not review a protest of the agency's decision to include another offeror in the competitive range when raised by *an offeror in the competitive range* because the possibility remains that the protester may receive the award. See *ICI Services Corp.*, *supra* at 1. A protester that has been excluded from the competitive range, however, remains an interested party to challenge the agency's evaluation of the offerors included in the competitive range where, as here, sustaining those challenges would require a new competitive range determination, thereby potentially giving the protester another chance to compete. See *e.g.*, *Delta Risk, LLC*, B-416420, Aug. 24, 2018, 2018 CPD ¶ 305 at 13-14.

The solicitation advised that price proposals, including proposed fully burdened labor rates and proposed prices for task order 0001 and sample task order 0002, would be evaluated in accordance with FAR subpart 15.4 to determine if the proposed price is complete and reasonable. RFP at 34-35. The RFP also advised that the price analysis techniques to be used might include, but are not limited to, “comparison to other proposals received in response to this solicitation; comparison to previously proposed and historical prices; use of parametric estimating methods; published market prices; and/or comparison to the independent government estimate.” *Id.* at 35. For the purpose of a tradeoff analysis, the agency would calculate a total evaluated price, which would be the sum of all base and option period prices proposed for the CLINs within task order 0001 and sample task order 0002. *Id.*

The record reflects that the agency analyzed price reasonableness based on a comparison of proposed prices received in response to the solicitation. See, e.g., AR, Tab C.10, Offeror A’s Price Evaluation Report at 8-13. Specifically, the agency calculated the mean rate or price, standard deviation, and range high (mean plus standard deviation), using the fully burdened labor rates and CLIN prices received in response to the solicitation. *Id.* The agency then analyzed the offeror’s proposed rates and CLIN prices, using one standard deviation as a “threshold indicator of a potentially high price” and two standard deviations as “the secondary threshold indicator for a price that is unreasonably high.” *Id.* at 8.

The agency’s analysis found that Offeror A’s fully burdened labor rates were reasonable because the number of rates higher than two standard deviations above the mean rate was not significant. *Id.* at 8-9. Using the same methodology, the agency found that Offeror A’s proposed price for task order 0001 was “above the one standard deviation range high” but “lower than the two standard deviations range high . . . by 9.17%,” and thus concluded the price Offeror A proposed for task order 0001 was reasonable. *Id.* at 11. The agency also found Offeror A’s proposed price for sample task order 0002 to be reasonable as it was found to be “less than the one standard deviation range high threshold.” *Id.* at 13. Based on this detailed analysis, and calculating the total evaluated price from the sum of the total prices proposed for task order 0001 and sample task order 0002, each of which was found to be reasonable, the agency concluded that Offeror A’s total evaluated price was reasonable. *Id.* at 13-14.

On this record, we find nothing objectionable about the agency’s price reasonableness determination. The agency not only compared Offeror A’s total evaluated price to a price range derived from offerors’ proposed prices using the standard deviation methodology, but also used this methodology to compare each proposed labor rate and CLIN price, providing reasoned analysis of where the agency found instances of high prices to be nevertheless reasonable. We also find no support for the protester’s contention that the agency mechanically applied the calculation without further analysis, as the agency’s evaluation included not only the results of calculations from applying the standard deviation methodology, but also detailed analyses of those results. See Supp. Comments at 12; see generally, AR, Tab C.10, Offeror A’s Price Evaluation Report. Moreover, the agency specifically identified instances where Offeror A’s

proposed rates were more than two standard deviations higher than the mean. In this context, the agency noted that such instances did not represent a significant percentage of the labor categories and concluded that, “[i]f discussions are held with the Offeror, the [price evaluation panel] will request negotiation of the [fully burdened labor rates] that were exceptionally high.” AR, Tab C.10, Offeror A’s Price Evaluation Report at 9. While the protester disagrees with the agency’s conclusions, such disagreement does not provide a basis for our Office to find the agency’s evaluation unreasonable. Accordingly, we deny the protester’s allegations in this regard.

Professional Compensation Plan

Next, Octo alleges that the agency did not perform an analysis of Offeror B’s total professional compensation plan as required by the solicitation. Comments and Supp. Protest at 25-27. In this regard, the solicitation included FAR provision 52.222-46, which requires the agency to evaluate an offeror’s total compensation plan (salaries and fringe benefits) by considering its impact on recruiting and retention, its realism, and its consistency with a total plan for compensation. RFP at 24, 35; see FAR provision 52.222-46(a). The protester points to Offeror B’s total evaluated price, which was \$20 million lower than Octo’s total evaluated price, to argue that a proper analysis of Offeror B’s total compensation plan would have revealed that Offeror B’s proposed compensation levels were unrealistic to obtain and retain qualified professional employees.⁴ *Id.*; Supp. Comments at 15-17.

The agency acknowledges that it was not able to evaluate Offeror B’s total compensation plan because Offeror B did not provide detailed salary information for the

⁴ The protester also contends that the agency’s methodology for evaluating proposed total compensation plans was flawed because the agency failed to compare the proposed compensation plans with the incumbent compensation levels as required by FAR provision 52.222-46. Comments and Supp. Protest at 26. The agency responds that it does not have the detailed salary information of the incumbent contractor under the current contract, a fixed-price and labor hour contract that uses fully burdened labor rates. Supp. COS/MOL at 15 n.4. The agency also explains that it would not have been appropriate to use the salary information provided in Octo’s proposal because Octo is an incumbent subcontractor, not the incumbent prime contractor. *Id.* In addition, the rates Octo proposed were for performing the new, broader requirements, with no indication that they were the same as the incumbent rates. *Id.*

We agree with the agency that where, as here, an agency does not have access to incumbent compensation information, it may use other reasonable means of analyzing proposed total compensation plans. See *Target Media Mid Atlantic, Inc.*, B-412468.8, June 27, 2017, 2017 CPD ¶ 208 at 6 (where record indicates that the actual, incumbent personnel rates were not reasonably ascertainable to the agency, analysis based upon a reasonable benchmark is unobjectionable). Here, we find reasonable the agency’s plan to use compensation levels developed based on market information. See AR, Tab C.8, Offeror B’s Price Evaluation Report at 13.

professional employees that will be performing the requirements under the labor categories identified in the solicitation. Supp. COS/MOL at 14-15. The agency, however, maintains that it reasonably determined that the missing information could be obtained through discussions. *Id.*

We see no basis to find the agency's evaluation unreasonable. While an award based on a proposal with incomplete or missing information would be improper, nothing in the solicitation, or in any applicable law or regulation, requires the agency to exclude a proposal from the competitive range where the agency reasonably concludes that the errors or deficiencies in the proposal could be corrected through discussions. See *Cambridge Systems, Inc.*, B-400680, B-400680.3, Jan. 8, 2009, 2009 CPD ¶ 12 at 4-5 (finding that the agency properly included in the competitive range allegedly technically unacceptable proposals where the evaluators concluded that errors and deficiencies in the proposals could be corrected through discussions without a major rewrite or major revision of proposals).

Here, the agency found that while Offeror B provided its "national salary structure that included salary ranges for 18 different grades," Offeror B did not provide specific details as to the relevance of this information to the personnel proposed to perform this requirement. AR, Tab C.8, Offeror B's Price Evaluation Report at 13. The agency acknowledged that the failure to provide this information prevented the price evaluators from comparing Offeror B's professional employee salaries to market salary data, but concluded that it was an issue that could be resolved through discussions. *Id.* We find this conclusion to be reasonable.

Competitive Range Determination

Finally, Octo alleges that the agency's competitive range determination was unreasonable because the agency: (1) ignored all evaluation factors and subfactors other than the overall technical approach subfactor under the technical/management factor; (2) treated offerors disparately in deciding which proposal issues could be improved by discussions; and (3) failed to meaningfully consider price. Protest at 14-15; Comments and Supp. Protest at 2-14, 19-23. In this respect, the protester alleges that the agency mechanically selected only those offerors whose proposals received a rating of outstanding under the technical/management factor, with complete disregard for the merits and deficiencies of proposals under other evaluation factors. Comments and Supp. Protest at 2-3.

The agency contends that it performed a comprehensive evaluation, considering all evaluation factors, including price. COS/MOL at 29-32; Supp. COS/MOL at 1-3, 5-8. The agency maintains that the source selection authority, after being fully briefed on the underlying evaluation assessments under all factors, reasonably concluded that the merits and deficiencies found under the non-technical factors were not significant enough to outweigh the ratings of outstanding received for the significantly more important technical/management factor. *Id.*; see generally, AR, Tab E.1, Competitive Range Determination.

As we noted at the outset, our Office will review an agency's evaluation and exclusion of a proposal from the competitive range for reasonableness and consistency with the solicitation criteria and applicable statutes and regulations. *Veteran Technology Partners III LLC*, B-418461.13, B-418461.20, Feb. 24, 2021, 2021 CPD ¶ 145 at 10; *Cylab Inc.*, B-402716, July 13, 2010, 2010 CPD ¶ 163 at 4. Contracting agencies are not required to retain, in the competitive range, proposals that are not among the most highly rated. FAR 15.306(c)(1); *Cyberdata Techs., LLC*, B-417816, Nov. 5, 2019, 2019 CPD ¶ 379 at 6. In this regard, a protester's disagreement with an agency's evaluation and competitive range judgment does not establish that the agency acted unreasonably. *CEdge Software Consultants, LLC*, B-409380, Apr. 1, 2014, 2014 CPD ¶ 107 at 6.

The contemporaneous record here shows that, in establishing the competitive range, each proposal was given meaningful, individual consideration under all of the evaluation factors. The record reflects that separate evaluation teams evaluated the proposals under each evaluation factor, including price, and documented their findings in a separate consensus evaluation report for each factor. COS/MOL at 4-14; see *generally*, AR, Tabs C.1-C.10. The SSEB consolidated the consensus evaluation reports into a consolidated evaluation report, documenting the SSEB's findings for each proposal under all of the evaluation factors, and presented it to the contracting officer and the source selection authority. COS/MOL at 14; see *generally*, AR, Tab D.1, SSEB Consolidated Evaluation Report. Based on these evaluation findings, the contracting officer, in consultation with the source selection authority, established the competitive range. COS/MOL at 14. The competitive range determination documented this analysis and incorporated the SSEB consolidated evaluation report and the individual consensus evaluation reports. *Id.*; see *generally*, AR, Tab E.1, Competitive Range Determination.

In the competitive range determination document, the contracting officer discussed the evaluation assessment for each offeror under each evaluation factor and subfactor, including price. See AR, Tab E.1, Competitive Range Determination at 7-13. Based on the evaluation results, the contracting officer decided that two of the eight offerors submitted the most highly rated proposals, meriting their inclusion in the competitive range "based on the initial ratings, including the intensity of the strengths, weaknesses, and deficiencies of each Offeror in relation to the relative order of importance of Factors and Sub-factors as described in Section M of the RFP." *Id.* at 7. In including Offeror A and Offeror B in the competitive range, the agency noted that their proposals received a rating of outstanding under the technical/management factor. *Id.* at 7, 9. The agency, however, also discussed the evaluation of their proposals under each of the other factors. *Id.* at 7-11.

For example, although Octo complains that the agency failed to consider the small business participation evaluation, the agency's competitive range determination provides a detailed discussion of the marginal rating assigned to Offeror A and Offeror B's proposals under that evaluation factor. *Id.* at 8, 10. The agency noted that both offerors proposed to allocate more than the required percentage of the contract value to small businesses: 36 percent and 41.9 percent respectively. *Id.* The agency

also found that both offerors applied their proposed percentages incorrectly, multiplying the percentage against their total proposed prices rather than the RFP-provided contract value ceiling amount. *Id.* In addition, the agency noted that one of Offeror B's proposed small business subcontractors was not considered a small business under the applicable North American Industry Classification System code. *Id.* at 10. The agency concluded, however, that these discrepancies in the offerors' small business participation plans--one of the least important non-price factors--could reasonably be addressed through discussions. *Id.* at 8, 10. On this record, we find that the protester's disagreement with the agency's conclusion is not sufficient to render the evaluation unreasonable. See *Trilogy Federal, LLC, supra*.

The protester also argues that the agency treated Octo disparately when it decided that discrepancies in Offeror A's and Offeror B's small business plans could be addressed through discussions, but failed to extend the same consideration for Octo's evaluation under the security factor. Supp. Comments at 3-8. The protester contends that the reason for its fail rating under the security factor--Octo's failure to provide required foreign ownership, control, or influence (FOCI) documents--was an inadvertent clerical error that could have been easily addressed through discussions. *Id.*

While agencies may properly exclude from the competitive range proposals that are not considered to be among the most highly rated, judgments regarding which proposals are included in the competitive range must be made in a relatively equal manner. *Outdoor Venture Corporation*, B-401351.2, B-401351.3, Sept. 14, 2009, 2009 CPD ¶ 194 at 6. An agency may not reasonably exclude a proposal from the competitive range where the strengths and weaknesses found in that proposal are similar to those found in proposals in the competitive range. *Hamilton Sundstrand Power Sys.*, B-298757, Dec. 8, 2006, 2006 CPD ¶ 194 at 6.

As noted, the agency assigned a fail rating to Octo's proposal under the security factor because the proposal did not include required documents related to Octo's FOCI status. See AR, Tab D.1, SSEB Consolidated Evaluation Report at 41. In the competitive range determination, the agency noted that Octo failed the security factor, but decided to exclude Octo based on its conclusion that Octo's proposal "does not present . . . strengths within the technical/management approach that are advantageous and through discussions its overall proposal would not [be] competitive for award among the most highly rated Offerors." AR, Tab E.1. Competitive Range Determination at 13.

We find the agency's determination reasonable. While Octo argues that all three proposals could be improved through discussions, the protester has not demonstrated that the discrepancies found in the competitive range offerors' small business plans were similar to the omission of required documents in Octo's security plan. In this regard, we are not persuaded that the marginal ratings assessed for calculation errors in the competitive range offerors' small business plans are similar to the rating of fail, under a pass/fail criteria, assessed for Octo's lack of required security documents. Therefore, we deny this allegation on the basis that Octo has not demonstrated that the agency treated similar deficiencies unequally. Moreover, as noted, the agency

excluded Octo from the competitive range primarily because its proposal lacked strengths within the technical/management approach so that it was deemed less competitive for award. The pertinent standard for inclusion in the competitive range is simply whether the proposal is one of the most highly rated in the competition; the standard does not require the agency to include every proposal which could potentially be improved through discussions. See FAR 15.306; see also, *KSC BOSS Alliance, LLC*, B-416334, B-416334.2, July 27, 2018, 2018 CPD ¶ 267 at 12-14.

Finally, Octo argues that the competitive range determination failed to meaningfully consider price because the proposals of Offeror A and Offeror B were determined to be among the most highly rated despite serious pricing issues: Offeror A's high total price and Offeror B's missing professional compensation information. We find no merit to this argument because the record shows that the agency duly considered offerors' pricing issues in its competitive range determination. For example, in the competitive range determination document, the contracting officer discussed the evaluation finding that Offeror A's price "included some fully burdened labor rates that were found comparatively high" and that Offeror A's task order 0001 CLIN price for software maintenance was "higher in comparison to the competition." AR, Tab E.1. Competitive Range Determination at 8. Nonetheless, the contracting officer concluded that Offeror A's "price proposal issues can reasonably be addressed through discussions, providing the opportunity to submit a final price more advantageous to the Government." *Id.* at 9. The contracting officer also noted that Offeror B's price proposal lacked specific details about salary compensation, but concluded that this issue with Offeror B's "total compensation plan can reasonably be addressed through discussions." *Id.* at 10-11.

On this record, we find that the agency considered all evaluation factors, including price, in its competitive range analysis. We note that Offeror A's and Offeror B's technical/management proposals were evaluated as far superior--with a rating of outstanding--when compared to Octo's rating of acceptable. Moreover, as discussed above, we find no merit to the protester's challenges to the evaluation of Octo's proposal under the technical/management factor. Therefore, we do not find objectionable the agency's decision to establish a competitive range only of those proposals that were most highly rated under the most important factor of technical/management. We also do not find unreasonable the agency's conclusion that discrepancies and defects found under other evaluation factors for these proposals could be reasonably addressed through discussions.

The protest is denied.

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