



Decision

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Matter of: Octo Consulting Group, Inc.

File: B-421182; B-421182.2

Date: January 17, 2023

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DIGEST

Protest challenging the agency's evaluation of quotations is denied where the evaluation was reasonable and in accordance with the terms of the solicitation.

DECISION

Octo Consulting Group, Inc., of Reston, Virginia, protests the issuance of a task order to Leidos, Inc., of Reston, Virginia, under request for quotations (RFQ) No. RFQ-CMS-220925, issued by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for information technology (IT) services to support the Continuously Available CMS Hosting Environment (CACHE) Managed Infrastructure Service Provider (MiSP) program. The protester contends the agency unreasonably evaluated quotations, which resulted in an unreasonable source selection decision.

We deny the protest.

BACKGROUND

The CACHE MiSP program is a multi-prong initiative designed to ensure that the IT infrastructure, hosting and enterprise services that support CMS's operations remain flexible and secure enough to support the needs of the agency. Agency Report (AR),

Tab 4.B, RFQ, amend. 0003, Attach. 1, Statement of Objectives (SOO) at 6.¹ To achieve this end, the agency issued the RFQ to vendors holding General Services Administration Federal Supply Schedule/Multiple Award Schedule contracts under special item number 54151S, IT Professional Services. AR, Tab 4.A, RFQ, amend. 0003 at 1; AR, Tab 15, Award Decision at 5. The RFQ, which was issued on June 6, 2022, pursuant to Federal Acquisition Regulation (FAR) section 8.405, contemplated the issuance of a hybrid fixed-price/time-and-materials task order to the responsible vendor whose quotation represented the best value to the government. RFQ at 1, 7. The period of performance consisted of a base period of eight months, four 1-year option periods, and one 4-month option period. AR, Tab 5, Contracting Officer's Statement (COS) at 1.

The RFQ provided for a three-phase evaluation scheme, considering four non-price evaluation factors, listed in descending order of importance: corporate experience; solution exercise/oral presentation; performance work statement (PWS) and quality assurance surveillance plan (QASP); and section 508² Voluntary Product Accessibility Template (VPAT). RFQ at 6. The non-price factors, when combined, were significantly more important than price. *Id.* at 7. Between each evaluation phase, the agency would issue an advisory notification to the vendors that submitted a quotation for that phase, informing each vendor of the evaluation results for its quotation and whether the vendor should participate in the subsequent phase.³ *Id.* Quotations for phase one were due by June 20. AR, Tab 15, Award Decision at 5.

For phase one, the agency would evaluate corporate experience. RFQ at 8. Under this factor, vendors were required to submit up to three case studies that demonstrated recent performance of work similar to the tasks sought by the agency in this procurement. *Id.* The agency would evaluate the similarity between the vendor's submitted experience and the work required by the agency, giving consideration to the technology, architecture, stakeholders (*e.g.*, clients, users, etc.), tools, and methods of the vendor. *Id.*

¹ The RFQ was amended three times; all citations are to the final amended version.

² Though not at issue in this protest, section 508 refers to the Rehabilitation Act of 1973, as amended, which generally requires that agencies' electronic information technology be accessible to people with disabilities. See 29 U.S.C. § 794d.

³ Advisory notifications informed vendors of the agency's determination as to whether the vendor should participate in the following phase given the evaluation results of the current phase. RFQ at 7. The purpose of these advisory notifications was "to minimize quote development and presentation costs for [vendors] with little or no chance of receiving an award, as well as to minimize evaluation time and effort on the agency's part." *Id.* Ultimately, however, the vendor decided whether it would proceed to the next phase. *Id.*

For phase two, the agency would evaluate the vendor's solution exercise/oral presentation. *Id.* at 9. Under this factor, vendors were to give a presentation that consisted of an introduction, an oral presentation, and if necessary, a session of clarifying questions and answers. *Id.* At the outset of the presentation, the agency would provide all vendors with the same set of core questions to which the vendors were required to respond. *Id.* The RFQ provided that the agency might also provide vendors with hypothetical scenarios to which the vendors would have to provide a response. *Id.* The agency would then evaluate the presentations to determine the capability and suitability of the vendor to perform the requirements. *Id.* The agency would consider not only the content of the answers, but the methods used by the vendor to communicate its answers. *Id.*

For phase three, the agency would evaluate factor three, which consisted of the PWS and QASP, and factor four, which consisted of the section 508 VPAT.⁴ *Id.* at 12-14. Under factor three, vendors were to provide a draft QASP, as well as a PWS that described the vendors proposed solution, including (1) the tasks to be performed and the deliverables to be provided, (2) the people, tools, measures, and methods used during performance, and (3) any assumptions, exclusions, exceptions, or clarifications made in formulating the solution. *Id.* The agency would then evaluate the merits of the proposed PWS and QASP, focusing on the degree to which the PWS demonstrated an understanding of the agency's needs, and the extent to which the people, processes, performance measures, and tools would serve these needs. *Id.* at 13.

Under factor four, the RFQ advised vendors to submit a template that demonstrated the vendor's compliance with the accessibility standards of section 508. *Id.* The agency would evaluate the vendor's understanding of the requirements and ability to meet the accessibility standards. *Id.* at 14.

For cost/price, the agency would conduct a price reasonableness analysis, and if necessary, a realism analysis for the time-and-material line items. *Id.* at 20. Additionally, vendors were required to ensure that the types and quantities of labor and material were consistent with other areas of the quotation. *Id.*

Evaluation of Octo's and Leidos's Quotations

On June 14, 2022, the agency received phase one quotations from Octo, Leidos, and one other vendor. COS at 2. The agency issued advisory notices for phase one on July 18. *Id.* On August 2, the agency conducted the oral presentations for phase two, and following the evaluation of those presentations, issued advisory notices on August 5. *Id.* Prior to the phase three evaluation, the agency issued an amendment to the solicitation on August 10 that updated the RFQ, including the SOO, and provided answers to phase three questions. *Id.* On August 22, the agency received phase three

⁴ The cost/price volume, and business ethics, conflicts of interest, and compliance volumes were also evaluated during this phase. RFQ at 12. Octo does not challenge the evaluation of any of these volumes.

quotations from Octo and Leidos. *Id.* The final evaluation results, inclusive of all phases, were as follows:

	Octo	Leidos
Corporate Experience	High Confidence	High Confidence
Solution Exercise/ Oral Presentation	Some Confidence	High Confidence
PWS and QASP	Some Confidence	High Confidence
Section 508	High Confidence	Low Confidence
Quoted Cost/Price	\$53,782,518	\$79,700,063
Evaluated Cost/Price	\$62,712,615	\$79,700,063

AR, Tab 15, Award Decision at 7-8.⁵

In the evaluation for phase one, the technical evaluation panel (TEP) concluded that it had high confidence in the corporate experience for both Octo and Leidos. AR, Tab 13.A, Phase One TEP Report at 2. Although both vendors received the same overall rating under this factor, only Leidos’s quotation had no areas that decreased the agency’s confidence. *Id.* at 4. In reviewing Octo’s quotation, the TEP noted that while Octo demonstrated experience with a cloud environment and on-premise infrastructure individually, it had decreased confidence in Octo’s corporate experience because Octo did not detail its experience working with these services together, as required by section 6.6 of the SOO. *Id.* at 5-6.

For the phase two solution exercise/oral presentation, the agency created hypothetical scenarios focusing on the following areas: (1) a solution delivery approach, (2) operations management, and (3) integration services. AR, Tab 14, Phase Two Guidance at 1. For the solution delivery approach, vendors were to design and present a solution for on-premises directory services which would provide authentication and access support services, rights management, and certificate services to CMS administrative users of IT systems and CMS data center requirements. *Id.* at 2. For scenario two, vendors were to present an approach for the operations management using their solution from scenario one in a hypothetical situation where numerous servers hosted in the same CMS datacenter were unable to resolve and connect to the active directory service. *Id.* at 3. For scenario three, vendors were to present their approach for integrating their solution from scenario one in a situation where on-premises active directory services required integration with a cloud-hosted active directory service. *Id.* at 4. Leidos received a rating of “high confidence” under this

⁵ A rating of “high confidence” indicated that the agency had high confidence that the vendor understood the requirement, proposed a sound approach, and would be successful in performing the contract with little or no agency intervention. RFQ at 7. A rating of “some confidence” indicated that the agency had some confidence in the aforementioned considerations. *Id.* A rating of “low confidence” indicated that the agency had low confidence in these considerations. *Id.*

factor, with no areas that decreased the TEP's confidence. AR, Tab 13.B, Phase Two and Three TEP Report at 2-4. Octo, however, received a rating of "some confidence," with several areas in each of the three scenarios that decreased the TEP's confidence. *Id.* at 4-7.

For the QASP and PWS, which were evaluated during phase three, the TEP assigned Leidos a rating of "high confidence," noting that there were numerous areas in its quotation that increased the TEP's confidence, but no areas that decreased its confidence in successful performance. *Id.* at 8-11. Octo, however, received a rating of "some confidence" for two reasons. *Id.* at 11-14. First, the TEP expressed concern that Octo failed to fully detail how it intended to accomplish certain key activities, such as communication with stakeholders. *Id.* at 13-14. Second, the TEP noted that, although Octo's labor categories and key personnel were sufficient at the outset, its proposed reduction in the level of effort starting in the second option year and beyond was "unrealistic given its near-exclusive dependence on replacing staff with automation." *Id.* at 14. This unrealistic reduction in personnel, in the TEP's view, reduced the likelihood of Octo meeting the QASP objectives. *Id.*

For the section 508 factor, which was also evaluated in phase three, Octo received a rating of "high confidence" with no notes provided by the agency under the "assessment comments" section. AR, Tab 13.C, Section 508 Review at 1. Leidos, however, received a rating of "low confidence" because, as the assessment comments noted, the template was incomplete. *Id.* The comments recommended that Leidos re-submit its compliance form. *Id.*

In its award decision, the contracting officer concluded that Leidos's quotation represented the best value to the agency as Leidos's quotation was superior to Octo's quotation under three out of four of the most important evaluation factors. AR, Tab 15, Award Decision at 15. Although Leidos submitted a higher price, the contracting officer concluded that Leidos's superior corporate experience, advanced knowledge of the CMS system and affected stakeholders as demonstrated during the solution exercise/oral presentation, and high level of ability to address issues related to the work requirements as demonstrated by its PWS and QASP all warranted the agency paying the price premium. *Id.* at 26-27.

Consequently, the agency issued the task order to Leidos on September 28, 2022. COS at 4. On October 4, the agency provided Octo with a brief explanation of the award in accordance with FAR section 8.405-2(d). Protest, exh. D, Brief Explanation at 1. Octo filed this protest with our Office on October 11.

DISCUSSION

Octo first challenges the agency's evaluation of its quotation, contending that the agency unreasonably evaluated its oral presentation under factor two, solution exercise/oral presentation and its PWS under factor three, PWS and QASP. Protest at 6-12. In its supplemental protest, Octo argues the agency unreasonably evaluated

Leidos's section 508 compliance under factor four. Comments and Supp. Protest at 2. Additionally, Octo contends the agency engaged in disparate treatment with regard to its evaluation of corporate experience and the PWS/QASP. *Id.* at 4-10. As a result, Octo argues the resulting best-value tradeoff decision was unreasonable. Protest at 13. For the reasons discussed below, we deny the protest.⁶

The evaluation of quotations is a matter within the discretion of the procuring agency. *Platinum Bus. Servs. LLC*, B-419930, Sept. 23, 2021, 2021 CPD ¶ 348 at 4. In reviewing a protest of an agency's evaluation of quotations, it is not our role to reevaluate quotations; rather, our Office will examine the record to determine whether the agency's judgment was reasonable and consistent with the solicitation criteria. *Id.* A vendor's disagreement with the agency, without more, does not render the evaluation unreasonable. *Id.*

Challenge to Evaluation of Octo's Oral Presentation

Octo argues that the agency unreasonably evaluated its oral presentation regarding both the first and second scenarios. Protest at 7-9. Under the first scenario, Octo takes issue with three findings made by the TEP that lowered its confidence rating. *Id.* First, Octo challenges the finding that it "did not clearly identify the stakeholders involved in the process or how they would apply this approach to other workloads in the environment." *Id.* at 7; AR, Tab 13.B, Phase Two and Three TEP Report at 5. According to Octo, it clearly identified the stakeholders, and had no obligation to explain how it would apply this approach to other workloads in the environment. Protest at 7. In response, the agency acknowledges that Octo mentioned some stakeholders, but failed to provide the required amount of detail. Memorandum of Law (MOL) at 5. Additionally, the agency argues that the guidance provided to vendors for scenario one instructed them to clearly describe their service delivery approach and model for how this service will be operated. *Id.*; AR, Tab 14, Phase Two Guidance at 2.

Our review of the record confirms the reasonableness of the agency's evaluation. As the contracting officer points out, although Octo identified some stakeholders, it failed to provide detail as to their level of engagement. COS at 5. For example, the TEP report reflects that Octo's solution exercise focused on communication with stakeholders, but did not sufficiently detail how Octo would "work with stakeholders to resolve major technical concerns as required in SOO section 7.1.4.2." AR, Tab 13.B, Phase Two and Three TEP Report at 4. Furthermore, the guidance for scenario one provided that the solution should "incorporate all task areas of the SOO." AR, Tab 14, Phase Two Guidance at 2. The SOO itself provides that the "overall objective is to maintain and support the current and future workloads operating within CMS." AR, Tab 4.B, SOO at 10. Thus, as the solicitation specifically advised vendors to incorporate all task areas of the SOO into their solutions, Octo's contention that it did not need to apply this approach to other workloads is unsupported by the record.

⁶ Although we do not address every argument raised by the protester, we have considered them and find none to be meritorious.

Second, Octo challenges the TEP's finding that it "did not fully address integrated team approach to ensure dedicated teams for specific [Application Development Organizations (ADOs)]⁷ or workloads." Protest at 7; AR, Tab 13.B, Phase Two and Three TEP Report at 5. According to Octo, the SOO did not require dedicated teams for specific ADOs. Protest at 7. As the TEP report indicates, however, "[s]upporting the ADOs is a critical objective in the SOO under Section 6.6 [No.] 1 and 7.1.1.2." AR, Tab 13.B, Phase Two and Three TEP Report at 5. Because the guidance for this scenario required vendors to incorporate "all task areas of the SOO," we have no basis to object to the agency's finding here. AR, Tab 14, Phase Two Guidance at 2.

Third, Octo challenges the conclusion that it proposed developing a "hot site,"⁸ which resulted in a finding of "decreased confidence" because the agency already has two hot site locations in operation. Protest at 8; AR, Tab 13.B, Phase Two and Three TEP Report at 5. According to the agency, the proposed creation of what would be a third, and therefore superfluous, hot site location indicated that Octo misunderstood the CMS environment as outlined in section 5 of the SOO. *Id.* In response, Octo argues that the TEP misunderstood Octo's proposed solution because Octo did not propose to build a new hot site. Protest at 8. Instead, Octo contends that it "discussed use of a Hot Site in reference to the well-publicized CMS Disaster Recovery as a Service ("DRaaS") approach." *Id.* The agency, however, argues that Octo "clearly stated" in its presentation that it would create a hot site, and only now offers a clarifying explanation as to the definition it had in mind when it used that term. COS at 6. We have no basis to object to the agency's conclusion. As the protester concedes, it "discussed use of a Hot Site" during its presentation. Protest at 8. Octo does not provide any supporting documentation from the presentation that clarifies exactly what it meant when using this term.

Under the second scenario, the TEP identified three areas in Octo's quotation that decreased its confidence. *Id.* at 6. Octo challenges only one of those areas, arguing that the TEP's conclusion that it "did not fully identify a detailed incident workflow" was unreasonable. Protest at 8. Octo contends it "described in detail its approach to identifying the incident, classifying the incident, defining the problem, resolving the problem, and communicating with the correct individuals and stakeholders to rebuild trust following an incident." *Id.* While the agency acknowledges that Octo mentioned these elements, the TEP found that overall, Octo failed to fully identify a detailed incident workflow. AR, Tab 13.B, Phase Two and Three TEP Report at 6. Further, Octo's failure to provide an identified operational model in scenario one contributed to the negative finding here because, as mentioned in the guidance, the solution developed in scenario one was to be used for this scenario. COS at 7.

⁷ "ADOs" are CMS Application Development Organizations. MOL at 7 n.1.

⁸ In this context, a "hot site" is an on-premise location where stored data can be accessed in the event of a disaster. See COS at 6.

Based on the record here, we have no basis to object to the agency's finding of decreased confidence pertaining to incident workflow. The TEP ultimately concluded that the workflow presented by Octo was neither easily understandable nor sufficiently detailed, conclusions that the protester has not demonstrated to be unreasonable. Additionally, Octo has not demonstrated that it suffered competitive prejudice as a result of the finding. Competitive prejudice is an essential element of every viable protest. *Armorworks Enters., LLC*, B-400394.3, Mar. 31, 2009, 2009 CPD ¶ 79 at 3. Our Office will not sustain a protest unless the protester demonstrates a reasonable possibility that it was prejudiced by the agency's actions. *Raytheon Co.*, B-409651, B-409651.2, July 9, 2014, 2014 CPD ¶ 207 at 17. Even if we were to agree that this specific finding was assigned in error, it does not appear to have had any meaningful impact on the overall evaluation of Octo's quotation, which included two additional negative findings pertaining to the second scenario that Octo does not challenge.

Challenge to Evaluation of Octo's PWS Quotation

Octo next challenges the agency's evaluation of its PWS quotation in two respects. Protest at 9-12. First, Octo contends the agency's concerns with its proposed PWS were unwarranted. *Id.* at 9. Second, Octo argues that the agency "overlooked numerous advantages" of Octo's proposed PWS. *Id.* at 11.

For this factor, vendors were required to prepare a PWS that described in detail its proposed solution, and include an organizational chart or staffing plan. RFQ at 11. In Octo's quotation, Octo proposed reducing staff [REDACTED]. Protest at 10. Octo points out that it received a positive finding that increased the TEP's confidence due to Octo's proposed automation. *Id.* The agency, however, responds that the TEP found the reduction in staff to be unrealistic given the "near exclusive dependence on replacing staff with automation." COS at 8; AR, Tab 13.B, Phase Two and Three TEP Report at 14.

We have no basis to object to the agency's evaluation of Octo's proposed PWS. The contracting officer acknowledged that while Octo's automation tools were found to be a benefit that could result in cost saving opportunities, the level of automation proposed over a short period of time was found to be unrealistic. *Id.* The RFQ emphasized that vendors should "carefully review the RFQ and quote their own estimated skill mix and level of effort." RFQ at 12. It is clear that the agency, which upwardly adjusted Octo's quoted cost by nearly \$10 million due to Octo's quoted labor mix for half of option period two, and the entirety of option periods three, four, and five being found "unrealistic," did not view Octo as having carefully reviewed this matter. COS at 3. As mentioned above, Octo did not object to this upward adjustment, see note 4 *supra*, essentially conceding the reasonableness of the agency's finding that its sudden reduction in staff and increase in automation was unrealistic.

Octo next argues that the agency overlooked numerous advantages in its quotation under this factor. According to Octo, the agency should have recognized its approach to a matrixed team structure across workload and automation, arguing that its

methodology provided for flexible management of resources, furnished a greater value to the agency, and has proven to be effective at other agencies. Protest at 11-12. The agency states that the TEP considered Octo's quotation in full, and did not find these areas to exceed the requirements of the SOO. COS at 10.

We have no basis to object to the agency's conclusion. It is not clear that any of these mentioned areas were overlooked by the agency, nor that they warranted an increase in Octo's confidence rating. For example, Octo argues that it proposed [REDACTED] that were [REDACTED]. Protest at 12; AR, Tab 9.C, Octo Phase 3 Response for Factor 3 at 37. The SOO, however, expressly provided that vendors were to "form [integrated service delivery] teams (or [integrated service delivery] like teams) with skill sets that are capable of supporting the correlating workloads." As the contracting officer states, this proposed approach met the requirements, but did not exceed them. COS at 10. To the extent Octo argues the agency should have valued these features more highly, the protester has not demonstrated the agency's evaluation was unreasonable.

Challenge to the Evaluation of Leidos's Quotation

In challenging the evaluation of Leidos's quotation, Octo first argues that the agency should have concluded that the quotation was "unawardable" because Leidos failed to submit its section 508 form in accordance with the terms of the RFQ. Comments and Supp. Protest at 2. Specifically, Octo contends that Leidos submitted an incomplete form that should have resulted in its quotation being disqualified. *Id.* at 3.

The agency argues that it reviewed the filings in response to the supplemental protest and concluded that Leidos had, in fact, submitted a completed template. Supp. COS at 2. Although Octo argues that the version of the template Leidos submitted with its quotation was not the version required by the solicitation, the RFQ did not mandate a specific version to be used; instead, it provided a list of standards to be met. RFQ at 13-14. Because Leidos was able to demonstrate its capability to address the applicable 508 standards at the time of award, and the RFQ did not require a specific version of the form to be used in doing so, we deny this protest ground.

Disparate Treatment

Octo next contends that the agency engaged in disparate treatment with respect to its evaluation of corporate experience, and the PWS and QASP factors. Comments and Supp. Protest at 4-7. When a protester alleges disparate treatment in an evaluation, it must show the differences in the evaluation did not stem from differences between the vendors' quotations. *Battelle Memorial Inst.*, B-418047.5, B-418047.6, Nov. 18, 2020, 2020 CPD ¶ 369 at 6. In other words, to prevail on an allegation of disparate treatment, a protester must show that the features in its quotation were substantively indistinguishable from, or nearly identical to, those contained in other quotations. *22nd Century Techs.*, B-420510, B-420510.2, May 4, 2022, 2022 CPD ¶ 127 at 5. As explained below, we find that the protester has failed to make such a showing here.

Octo first argues that the agency credited Leidos's quotation for [REDACTED], but failed to credit Octo's quotation for its similar experience. Comments and Supp. Protest at 4-5. According to Octo, this positive finding was based on only one sentence from Leidos's quotation. *Id.* at 5. Octo argues that it, however, provided "significantly more detail on the same topic." *Id.* For instance, Octo argues that it [REDACTED] and also [REDACTED]. *Id.* Given the difference in detail, Octo contends that its quotation should have received a positive finding here as well.

We have no basis to object to the agency's conclusion here as the record does not support Octo's argument that the agency assigned Leidos's quotation a positive finding based solely on one sentence. In fact, there were numerous areas in Leidos's quotation where it discussed its experience within the areas referenced by Octo. For instance, Leidos provided that it worked on [REDACTED]. AR, Tab 10.B, Leidos Corporate Experience at 7. In another area, Leidos's quotation provides [REDACTED]. *Id.* at 18.

As is evident from these excerpts, the agency's assignment of a positive finding went beyond a single sentence, as argued by Octo. Additionally, the evaluation here did not involve "substantively indistinguishable" features. *22nd Century, supra*, at 5. Instead, the finding was based on a variety of different experiences with different products. This protest ground is thus denied.

In three additional arguments, Octo again cites specific programs, products, IT experience provided by Leidos in its quotation, and argues that the programs, products, and IT experience provided in Octo's quotation, although not the same, were similar enough to indicate disparate treatment. See Comments and Supp. Protest at 6. For example, Octo argues that the agency credited Leidos for its experience providing [REDACTED]. *Id.* at 5-6. According to Octo, it submitted similar experience, such as [REDACTED]. *Id.*

As is evident in these excerpts, the experience is not "substantively indistinguishable." For instance, Octo does not demonstrate experience with an [REDACTED]. *Id.* Octo instead has experience that it believes is similar and essentially asks our Office to substitute our judgment for that of the TEP in determining whether there is any "meaningful difference" between these specific items. *Id.* Evaluations involving such a high degree of technical knowledge are appropriately left to the TEP, not our Office. These protest grounds are thus denied.

Last, Octo argues that the agency disparately evaluated the PWS and QASP. Comments and Supp. Protest at 7. Essentially, Octo argues that the agency credited Leidos for providing "a sound approach to accomplishing the technical, and business requirements," but decreased the confidence rating for Octo's quotation for failing to "fully detail how they would accomplish certain key activities." *Id.* Octo contends that Leidos merely "copied and pasted" the elements of the SOO. *Id.* at 8-9. A review of the record indicates that there were varying levels of detail between the two quotations, and with respect to Leidos's quotation, the TEP found that it provided a "detailed . . . communication plan that included service roadmaps on changes and improvement to

services offered.” AR, Tab 13.B, Phase Two and Three TEP Report at 10. Again, Octo is unable to show that the difference in the evaluation did not arise from differences in the quotations. Accordingly, this protest ground is denied.

The protest is denied.

Edda Emmanuelli Perez
General Counsel