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Decision

Matter of: AttainX, Inc.

File: B-421216; B-421216.2

Date: January 23, 2023

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DIGEST

1. Protest challenging the agency's evaluation of the experience of the awardee, an 8(a) small business joint venture, is sustained where the evaluation is inconsistent with small business regulations requiring agencies to consider the experience of the individual members of the joint venture if the joint venture itself does not demonstrate experience.
 2. Protest challenging agency's evaluation of the awardee's price quotation is sustained. The record shows that the agency miscalculated the number of full-time equivalent staff in the awardee's price quotation and used this incorrect number to evaluate whether the awardee's staffing level was realistic. In addition, the record fails to show that the agency resolved identified risks in the awardee's price quotation.
 3. Protest that the agency misevaluated quotations and made an unreasonable award decision is sustained where record fails to show that agency had a reasonable basis for its evaluation of quotations.
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DECISION

AttainX, Inc., an 8(a)¹ woman-owned small business, of Herndon, Virginia, protests the issuance of a task order to MiamiTSPi, LLC, an 8(a) small business joint venture² of Reston, Virginia, by the General Services Administration (GSA) under request for quotations (RFQ) No. 47QFNA22R0006, for information technology (IT) services to maintain and modernize the U. S. Department of Agriculture (USDA) Farm Loan Programs (FLP) systems and applications. AttainX argues that the award to MiamiTSPi was improper because GSA unreasonably evaluated the vendors' quotations and made an unreasonable best-value determination.

We sustain the protest.

BACKGROUND

On June 14, 2022, GSA issued the solicitation on behalf of USDA as a total small business set-aside pursuant to FAR subpart 16.5. Agency Report (AR), Tab 1, RFQ amend. 4, at 1-2, 15.³ The RFQ seeks quotations for IT services to sustain, enhance, and modernize FLP systems and applications.⁴ AR, Supp. Document Production, Tab 6, RFQ amend. 3, attach. 1, PWS at 9. The successful vendor will provide multi-disciplinary teams to develop software applications for and maintain existing applications used by the FLP.⁵ *Id.* at 15-16. Teams will be composed of “members

¹ Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a), authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for performance through subcontracts with socially and economically disadvantaged small businesses. Federal Acquisition Regulation (FAR) subpart 19.8. This program is commonly referred to as the “8(a) program.”

² The joint venture members of MiamiTSPi, LLC are Miami Technology Solutions, LLC (MTS), the managing member and 8(a) small business, and Technology Solutions Provider, Inc. (TSPi), the minority member and also a small business.

³ Citations to the record use the Adobe PDF or Microsoft Word pagination of documents or to the relevant worksheet and cell number for Microsoft Excel documents produced in the agency report. Furthermore, the RFQ was amended five times; all references to the RFQ are to the final conformed version in amendment 4 and all references to the performance work statement (PWS) are to the final conformed version in amendment 3, unless otherwise noted.

⁴ The FLP, which includes several major and minor loan programs for farmers and ranchers, is administered by the Farm Service Agency (FSA); the FSA, in turn, is part of the USDA's farm production and conservation (FPAC) mission. PWS at 3-4.

⁵ Although firms that compete for task orders under indefinite-delivery, indefinite-quantity (IDIQ) contracts are generally referred to as “vendors,” and responses to an RFQ are usually referred to as quotations. The record and the parties'

having expertise in business analysis, user centered design, product management, agile software development, systems integration, all forms of testing, and [development operations (DevOps)].” *Id.* Furthermore, teams and member composition may be changed to meet programmatic needs in concert with the government program manager. *Id.* at 16.

The competition was limited to firms holding Streamlined Technology Acquisition Resources for Services (STARS) III contracts.⁶ The RFQ anticipated the issuance of a fixed-price task order with a base period of 1-year and four 1-year options. RFQ amend. 4 at 3-4. The solicitation advised that quotations would be evaluated based on the following four factors: (1) similar experience; (2) technical approach; (3) staffing and qualifications; and (4) price, and award would be made on a best-value tradeoff basis. *Id.* at 17-20. For purposes of award, the three non-price factors were listed in descending order of importance, and when combined, were “significantly more important” than price. *Id.* at 18-19. As relevant here, the RFQ provided that the agency would evaluate the total price (including options) of quotations and “consider these for realistic level of effort for the work to be performed[;] . . . that is, does the level of effort reflect a clear understanding of the requirements, and is it consistent with the [vendor’s] technical [quotation].” *Id.* at 19. For the purpose of performing its evaluation in this regard, the agency required vendors to complete a detailed pricing template with their staffing by labor category for the base year and each option period. AR, Supp. Document Production, Tab 8, RFQ amend. 5, attach. 3, Pricing Spreadsheet.

GSA received quotations from 13 vendors, including AttainX and MiamiTSPi, by the closing date for receipt of quotations of July 22. AR, Tab 2, Award Decision Document (ADD) at 1. As relevant here, the agency evaluated the protester’s and awardee’s quotations as follows:⁷

briefings use the terms offerors and vendors, and quotations and proposals, interchangeably. Our decision uses the terms vendors and quotations for the sake of consistency.

⁶ STARS III contracts are IDIQ contracts awarded by GSA to participants in the 8(a) program to provide information technology services and service-based solutions.

⁷ For the similar experience, technical, and staffing and qualifications factors, the agency assigned quotations an adjectival rating of exceptional, acceptable, marginal, or unacceptable. AR, Tab 4, Evaluation Guide at 1. Evaluators considered strengths, weaknesses, deficiencies, risks, and assumptions when determining the adjectival rating. *Id.*

	AttainX	MiamiTSPi
SIMILAR EXPERIENCE	Exceptional	Acceptable
TECHICAL APPROACH	Exceptional	Exceptional
STAFFING AND QUALIFICATIONS	Acceptable	Exceptional
OVERALL RATING	EXCEPTIONAL	EXCEPTIONAL
TOTAL EVALUATED PRICE	\$135,594,429	\$93,207,631

Id. at 1-2.

The evaluators individually evaluated the technical quotations and then met to discuss the evaluations and develop consensus evaluation reports and overall ratings.⁸ Contracting Officer’s Statement (COS) at 2. After the technical evaluations were completed, the evaluators individually evaluated price quotations and prepared the consensus rating spreadsheet. *Id.*; see also Electronic Protest Docketing System (Dkt.) No. 26 (explaining that the agency’s price evaluation document was AR, Tab 3, Consensus Rating Spreadsheet). The evaluators convened to discuss their findings and recommended MiamiTSPi for award. See COS at 2-3.

The contracting officer, who was also the source selection authority (SSA), reviewed the technical and price evaluations and concurred with their findings. The contracting officer concluded that AttainX and MiamiTSPi “stood above” the other 11 vendors and conducted a comparative analysis of their quotations. AR, Tab 2, ADD at 2. Under the technical factors, the contracting officer found that both vendors’ quotations were rated exceptional overall and that AttainX had “a slightly better overall [e]xceptional rating” than MiamiTSPi’s overall rating of exceptional because AttainX was rated exceptional for the similar experience factor, the most important technical factor, whereas MiamiTSPi received a rating of acceptable for that factor. *Id.* at 2, 12. The contracting officer concluded, however, that AttainX’s slight technical advantage did not merit paying a 45 percent price premium over MiamiTSPi’s quotation, which also was “rated as overall exceptional with minimal risk while presenting an approach that conveyed comfortability that all requirements of the solicitation will be completed efficiently, effectively, and satisfactorily.” *Id.*

⁸ In the documents produced, the agency uses the terms “technical evaluation panel (TEP),” “technical evaluation team (TET),” and “source selection evaluation board (SSEB)” interchangeably and it is unclear from the record whether these are different groups of evaluators. Our decision uses the term evaluators for clarity and consistency; it is irrelevant to our decision whether the TET or TEP is different from the SSEB.

On September 28, 2022, the GSA notified AttainX that it had issued the task order to MiamiTSPi. Protest exh. A, Email from GSA to AttainX, Sept. 28, 2022. After requesting and receiving a debriefing, AttainX filed this protest with our Office.⁹

DISCUSSION

AttainX argues that the agency unreasonably evaluated MiamiTSPi's quotation under the similar experience factor. Protest at 12-14; Comments & Supp. Protest at 12-15. AttainX also challenges the agency's price evaluation, contending that the agency failed to conduct a price realism analysis, miscalculated the number of full-time equivalents (FTEs) in MiamiTSPi's quotation (and then relied on the miscalculated number in its price analysis), and failed to document the resolution of risks assessed to MiamiTSPi's price quotation. Protest at 6-10; Comments & Supp. Protest at 3-12. Finally, AttainX asserts that the agency's best-value determination is flawed. Protest at 19-20. For the reasons that follow, we deny AttainX's challenge regarding the agency's failure to conduct a price realism analysis. We conclude the remainder of the protester's arguments have merit, and sustain AttainX's other protest grounds.¹⁰

This task order competition was conducted among STARS III IDIQ contract holders pursuant to the provisions of FAR subpart 16.5. In reviewing protests of awards in task order competitions, we do not reevaluate quotations but examine the record to determine whether the evaluations and source selection decision are reasonable and consistent with the solicitation's evaluation criteria and applicable procurement laws and

⁹ Because the value of the task order exceeds \$10 million, the protest is within our jurisdiction to hear protests of task order awards under civilian agency multiple-award, IDIQ contracts. 41 U.S.C. § 4106(f)(2).

¹⁰ AttainX also raises other collateral arguments. Although we do not address every argument in our decision, we have reviewed them all and we find no basis to sustain the protest on grounds other than those specifically addressed below. For example, AttainX alleged that the agency unreasonably evaluated MiamiTSPi's quotation as exceptional under the technical approach factor because, in the protester's view, MiamiTSPi lacks experience on similar projects and its price quote is low. Protest at 14. The assertions about MiamiTSPi's experience and its quoted price, however, did not reasonably suggest that the agency miscalculated the MiamiTSPi's quotation under the technical approach factor because the technical approach factor did not concern the evaluation of an offeror's experience or its price. Accordingly, we dismissed this allegation because it was based entirely on speculation as to the contents of MiamiTSPi's quotation, which does not provide a sufficient factual basis for a protest ground. Dkt. No. 16, Notice of Decision on Req. for Dismissal (dismissing protest grounds); *Mark Dunning Indus., Inc.*, B-413321.2, B-413321.3, Mar. 2, 2017, 2017 CPD ¶ 84 at 2 (dismissing protester arguments as speculative and insufficient to form a legally or factually valid basis for protest where protester merely speculates as to the contents of an awardee's proposal, without actual knowledge of its contents).

regulations. *Wyle Labs., Inc.*, B-416528.2, Jan. 11, 2019, 2019 CPD ¶ 19 at 4. It is a fundamental principle of federal procurement law that a contracting agency must treat all vendors equally and evaluate their quotations evenhandedly against the solicitation's requirements and evaluation criteria. *Sumaria Sys., Inc.; COLSA Corp.*, B-412961, B-412961.2, July 21, 2016, 2016 CPD ¶ 188 at 10. A protester's disagreement with the agency's judgment regarding the evaluation of quotations, without more, is not sufficient to establish that the agency acted unreasonably. *DevTech Sys., Inc.*, B-418273.3, B-418273.4, Dec. 22, 2020, 2021 CPD ¶ 2 at 7.

Similar Experience Evaluation

AttainX argues that GSA unreasonably evaluated MiamiTSPi's quotation under the similar experience factor. Protest at 12-14; Comments & Supp. Protest at 12-15. MiamiTSPi is a tribally-owned 8(a) SBA-certified joint venture, and the joint venture is the entity that holds a STARS III IDIQ contract.¹¹ Supp. Memorandum of Law (MOL) at 5. As stated, the partners in the joint venture are Miami Technology Solutions, LLC (MTS), the managing member and 8(a) small business, and Technology Solutions Provider, Inc. (TSPi), the minority member and also a small business. AR, Supp. Document Production, Tab 9, MiamiTSPi Price Quotation at 3, 5. Citing the SBA's regulations for mentor-protégé joint ventures, 13 C.F.R. § 125.8(c), AttainX, however, contends that the agency failed to reasonably evaluate the risk of MiamiTSPi's quotation because it failed to consider the fact that the experience examples submitted by MiamiTSPi were not performed by either MiamiTSPi or MTS, the managing protégé member of the MiamiTSPi joint venture; rather, the examples were solely for work managed by TSPi, the minority joint venture member.¹² Comments & Supp. Protest at 12-15. In response, the agency asserts that all the projects submitted were for either

¹¹ The SBA no longer certifies 8(a) small business joint ventures in connection with competitive procurements; however, at the time MiamiTSPi submitted its quotation, the SBA did. 87 Fed. Reg. 58219-20, 52224, Sept. 23, 2022 (codified at 48 C.F.R. § 19.805-2). For the SBA to certify an 8(a) joint venture, the 8(a) joint venture partner must be the managing member of the joint venture, it must perform 40 percent of the work, and must bring more than its 8(a) status to the joint venture. 13 C.F.R. §§ 124.513(a)(2), (c)(2), (d)(2).

¹² The agency and the intervenor do not specifically address whether MTS and TSPi are participants in SBA's mentor-protégé program or whether MiamiTSPi is a joint venture authorized by 13 C.F.R. § 125.9 (rules governing SBA's small business mentor-protégé program); however, neither GSA nor MiamiTSPi dispute that MTS is the protégé member of the MiamiTSPi joint venture. Even if MiamiTSPi is not a joint venture authorized under SBA's mentor-protégé program, SBA regulations require agencies to "consider work done and qualifications held individually by each partner to the joint venture as well as any work done by the joint venture itself previously." 13 C.F.R. § 125.8(e) (small business joint ventures); 13 C.F.R. § 124.513(f) ((8)(a) small business joint ventures). The resolution of this factual question is not dispositive of our resolution of the protest and as a result is not discussed further.

MiamiTSPi or one of the joint venture partners, and were therefore properly considered under the terms of the solicitation. Supp. COS at 2; Supp. MOL at 6.

With respect to similar experience, the RFQ instructed vendors to submit a minimum of two examples “that reflect and identify experience on projects” being performed currently or that have been completed within the last five years. RFQ amend. 4 at 16. The RFQ explained that the similar experience evaluation criteria “considers the extent of the contractor’s experience as a firm in providing like or similar services in accordance with the original project deadlines.” *Id.* at 18. For the project example submitted, “the contractor shall explain in a detailed narrative how the characteristics of the selected contract relate to the overall project for which they are being considered.” *Id.* The solicitation provided that:

The contractor shall describe the client, project title, scope of work, the period during which the work occurred, the dollar value of the work performed, the specific responsibilities of the contractor and whether the work was performed as prime contractor or subcontractor, major deliverables produced, performance measures/service levels applied, any awards that were received for superior performance, quality assurance, risk management methodologies used, lines of communication used, and any problems or issues that occurred, and the corrective action taken to include organizational change management tools and techniques. The contractor shall provide point of contact data sufficient for the Government to verify the information.

Id.

MiamiTSPi submitted two examples to demonstrate its similar experience. AR, Tab 6, MiamiTSPi Non-Price Quotation at 5-9. The first example, the SBA Office of Disaster Assistance (ODA) disaster credit management system (DCMS) modernization contract, was awarded to a different joint venture--MTSPi, LLC.¹³ *Id.* at 5-7. TSPi, however, was a member of the MTSPi joint venture that performed the contract and was represented as having [DELETED]. *Id.* at 5. The second example, referred to as the “FPAC Olympia” contract, was awarded to TSPi “to [DELETED].” *Id.* at 8.

Under the evaluation guide, a rating of acceptable is assigned when the quotation “[m]eets evaluation standards and any weaknesses can be readily correctable.” AR, Tab 4, Evaluation Guide at 1. The evaluators found that MiamiTSPi’s examples met the PWS requirements to demonstrate performance of the same or similar services and assigned MiamiTSPi’s quotation a rating of acceptable. AR, Tab 9, MiamiTSPi Non-Price Consensus Evaluation Report at 3. Specifically, the evaluators found that the examples were similar in size, scope, and complexity to the requirements of the solicitation, including the USDA technologies and that MiamiTSPi’s quotation included benefits offsetting potential risks. *Id.* The evaluators concluded therefore that

¹³ As discussed in greater detail below, MTSPi is not the same joint venture as MiamiTSPi; it is, however, composed of the same two member firms.

MiamiTSPi's examples "demonstrate [the] ability to successfully perform the work required in the PWS with low risk." *Id.*

As noted above, AttainX maintains that the agency unreasonably evaluated MiamiTSPi's quotation under the similar experience factor because the experience examples submitted by MiamiTSPi only relate to work managed by TSPi, which is only the minority member of the joint venture. None of the examples were for work performed or managed by either MiamiTSPi itself or MTS, the managing member of the MiamiTSPi joint venture. Specifically, the protester alleges that the first example, the SBA ODA DCMS modernization contract, was performed by MTSPi, an entirely different joint venture from MiamiTSPi. Comments & Supp. Protest at 13. The protester contends that "[a]ccording to its website, MTSPi LLC is another 8(a) joint venture between MTS and [TSPi]." *Id.* (citing <http://mtspi.com>). AttainX also highlights the fact that the SBA ODA DCMS modernization contract was managed by TSPi, not MTS. The protester notes that there is no mention of MTS performing any part of the SBA ODA DCMS modernization contract. *Id.* For this solicitation, however, AttainX points to the fact that TSPi is not the managing member of MiamiTSPi; rather, MTS will perform that role. *Id.*

Moreover, AttainX argues, this is also true for MiamiTSPi's second example, FPAC Olympia. AttainX contends that MTS did not perform this contract either; instead, TSPi was the contractor. No mention is made of MTS or any other contractor performing the contract. *Id.* According to the protester, the agency should have identified MiamiTSPi's failure to submit an example of a contract it performed or an example that MTS, the managing protégé member of the joint venture performed, as a risk under the similar experience factor because MTS will have to manage and perform at least 40 percent of the work MiamiTSPi performs. *Id.* at 12-14; *see also* Protest at 12-13 (referring to 13 C.F.R. § 125.8(c), which requires managing protégé joint venture partners to perform 40 percent of the contract work).

In response, the agency contends that the "solicitation did not have a requirement for each member of a joint venture company to submit individual similar experience examples." Supp. COS at 2; *see also* Supp. MOL at 6 ("There is nothing in the solicitation, amendments to the solicitation, the STARS III contract, or any of the [questions and answers] in response to the solicitation that precluded offerors from submitting two similar experience examples from joint venture partners, the joint venture itself, or any combination thereof."). The contracting officer avers that the examples of similar experience MiamiTSPi submitted "were similar in size, scope and complexity, as required by the solicitation." Supp. COS at 2. According to the contracting officer, "all similar experience submitted was from either MiamiTSPi or one of its underlying [joint venture] partners." *Id.* We disagree with the contracting officer's assertion that MiamiTSPi submitted a similar experience example and as set forth below conclude that the agency did not consider or evaluate the experience of MTS.

When evaluating a small business joint venture for award of a contract, the Small Business Act requires agencies to consider the experience of the individual members of

the joint venture “if the joint venture does not demonstrate sufficient capabilities or past performance to be considered for award of a contract opportunity[.]” 15 U.S.C. § 644(q)(1)(C). The SBA regulations implementing this statutory provision require agencies to consider the experience of small business joint ventures as follows:

When evaluating the capabilities, past performance, experience, business systems and certifications of an entity submitting an offer for a contract set aside or reserved for small business as a joint venture established pursuant to this section, a procuring activity must consider work done and qualifications held individually by each partner to the joint venture as well as any work done by the joint venture itself previously.

13 C.F.R. § 125.8(e); *see also* 13 C.F.R. § 124.513(f) (“When evaluating the capabilities, past performance, experience, business systems, and certifications of an entity submitting an offer for an 8(a) contract as a joint venture established pursuant to this section, a procuring activity must consider work done and qualifications held individually by each partner to the joint venture as well as any work done by the joint venture itself previously.”).

Based on the record and the SBA regulations outlined above, we cannot conclude that the agency reasonably evaluated MiamiTSPi’s quotation under the similar experience factor. Even though the agency insists that similar experience examples were submitted by either MiamiTSPi or one of its joint venture partners, it is clear that the agency has mistaken MTSPi for MiamiTSPi. The record shows only that the awardee submitted project examples for TSPi--by itself and as part of a different joint venture (MTSPi). The agency therefore did not evaluate a project example from the joint venture, MiamiTSPi, or from MTS, the managing protégé member of the joint venture. Moreover, the contemporaneous record lacks any type of acknowledgment of the fact that the only experience examples submitted were for the TSPi, indicating that the evaluators never even considered the limited nature of the experience examples included in MiamiTSPi’s quotation.

Notwithstanding the fact that the solicitation does not require examples from the joint venture itself or the individual members, the SBA regulations require the agency to evaluate each joint venture member individually when the joint venture itself does not demonstrate it has the required experience; the agency does not have license to ignore SBA regulations in its evaluation. We examine the record to determine whether the evaluations and source selection decision are reasonable and consistent with the solicitation’s evaluation criteria and applicable procurement laws and regulations. *Wyle Labs., Inc., supra*. Because MiamiTSPi did not submit experience for the joint venture and the agency’s evaluation is based on a consideration of only one joint venture member’s experience, we conclude that the agency failed to properly evaluate MiamiTSPi’s quotation in accordance with SBA regulations. *See Veterans Care Med. Equip., LLC*, B-420726, B-420726.2, July 29, 2022, 2022 CPD ¶ 206 at 7-8 (denying protest where agency properly evaluated experience of individual joint ventures members when the joint venture did not include its own experience in its proposal).

Accordingly, we find the agency's evaluation unreasonable and we sustain this protest ground.

Price Evaluation

AttainX also challenges various aspects of the agency's price evaluation. The protester first argues that the agency failed to perform a required price realism analysis and that the agency should have found that MiamiTSPi's price was unrealistic because it was too low to accomplish the technical approach specified in its quotation. Protest at 6-10. The protester also argues that the agency's price evaluation was unreasonable because it was based on the agency's miscalculation of the FTEs in MiamiTSPi's quotation. Comments & Supp. Protest at 8-9. Additionally, AttainX contends that the agency unreasonably determined that MiamiTSPi's price was realistic for the level of effort to be performed under the contract and the agency failed to reconcile the risks identified in the price consensus rating spreadsheet in its award decision. *Id.* at 4-8.

Price Realism

As a general matter, when awarding a fixed-price contract or task order, or a time-and-materials contract or task order with fixed labor rates, an agency is only required to determine whether the offered prices are fair and reasonable. See FAR 16.505(b)(3); 15.402(a); *HP Enter. Servs., LLC*, B-413888.2 *et al.*, June 21, 2017, 2017 CPD ¶ 239 at 5. An agency may, however, conduct a price realism analysis in awarding a fixed-price contract or task order for the limited purposes of assessing whether an offeror's or vendor's low price reflects a lack of technical understanding or performance risk. See FAR 15.404-1(d)(3); *Emergint Techs., Inc.*, B-407006, Oct. 18, 2012, 2012 CPD ¶ 295 at 5-6. Where a proposal or quotation does not expressly provide for the evaluation of price realism, we will conclude that a solicitation contemplates such an evaluation only where the solicitation: (1) states that the agency will review prices to determine whether they are so low that they reflect a lack of technical understanding, and (2) states that a proposal or quotation can be rejected or assessed technical risk for offering low prices. *NJVC, LLC*, B-410035, B-410035.2, Oct. 15, 2014, 2014 CPD ¶ 307 at 9; *DynCorp Int'l LLC*, B-407762.3, June 7, 2013, 2013 CPD ¶ 160 at 9. Absent a solicitation provision providing for a price realism evaluation, agencies are neither required, nor permitted, to conduct a realism evaluation in awarding a fixed-price contract or task order. See *Emergint Techs., Inc.*, *supra*.

Here, the solicitation did not expressly provide for the evaluation of price realism. Instead, the solicitation, which itself is unclear, provided that the agency would evaluate price quotations based solely on the following:

The Government will evaluate total price (including options) and consider these for realistic level of effort for the work to be performed. For example, are labor categories – and hours for each – appropriate for each task); that is, does the level of effort reflect a clear understanding of the requirements, and is it consistent with the offeror's technical proposal.

Additionally, all proposals with separately priced line items will be analyzed for unbalanced pricing.

RFQ amend. 4 at 19. The protester argues that the above solicitation language commits the agency to performing a price realism analysis. Protest at 6-7; Comments & Supp. Protest at 3-4 (same).

Although the RFQ advised that the agency would evaluate price and consider whether it was realistic for the level of effort for the work to be performed, the RFQ did not indicate that the quotation could be rejected or assessed technical risk for offering low prices. We therefore cannot conclude that the solicitation contemplated that the agency would perform a price realism analysis. Rather, the solicitation establishes that the agency would evaluate whether a vendor's level of effort (its staffing) was realistic and reflected the vendor's understanding of the requirements. Because no clear price realism evaluation, however, was contemplated by the solicitation, we dismiss as failing to state a valid basis of protest the protester's allegation that the agency improperly failed to find MiamiTSPi's quoted price unrealistic.¹⁴

Miscalculation in Price Analysis

Next, we turn to the protester's other price evaluation challenges. AttainX contends that the agency's price evaluation is unreasonable because it is based on a miscalculation of the number of FTEs in MiamiTSPi's quotation. Comments & Supp. Protest at 8-9. In this regard, the agency based its price analysis of MiamiTSPi's quotation on a count of 103 FTEs. Supp. COS at 3-4; AR, Tab 3, Consensus Rating Spreadsheet; AR, Tab 2, ADD at 1, 12-13. The protester asserts that MiamiTSPi only proposed [DELETED] FTEs, not 103. *Id.* at 8. The protester calculated this figure by first multiplying the number of hours MiamiTSPi proposed for each team by the number of iterations proposed for each team. *Id.* According to the protester, MiamiTSPi proposed 20 two-week iterations for [DELETED] of its teams and 6 two-week iterations for its transition team, which equals [DELETED] hours. *Id.* (referencing AR, Supp. Document Production, Tab 10, MiamiTSPi Price Quotation, 2. Team Pricing Detail tab). The protester then divided the number of hours proposed by 1,912, which the solicitation identified as the number of hours equal to a full FTE for pricing purposes. *Id.* (citing RFQ amend. 4 at 17). In other words, [DELETED] divided by 1,912 equals [DELETED], which the protester rounded to [DELETED].

¹⁴ Our Bid Protest Regulations, 4 C.F.R. § 21.1(c)(4) and (f), require that a protest include a detailed statement of the legal and factual grounds for the protest, and that the grounds stated be legally sufficient. These requirements contemplate that protesters will provide, at a minimum, either allegations or evidence sufficient, if uncontradicted, to establish the likelihood that the protester will prevail in its claim of improper agency action. *Midwest Tube Fabricators, Inc.*, B-407166, B-407167, Nov. 20, 2012, 2012 CPD ¶ 324 at 3.

AttainX argues that because of the agency's miscalculation, the number of MiamiTSPi's FTEs were artificially inflated, and therefore, the agency was incapable of properly considering whether MiamiTSPi's level of effort was realistic for the price quoted. *Id.* at 9. AttainX also contends that the agency's price analysis was unreasonable, and the agency's miscalculation had a material impact on GSA's award decision. Supp. Comments at 6-7.

For its part, GSA concedes that it miscalculated MiamiTSPi's hours, but contends that the correct FTE number is [DELETED] FTEs, not [DELETED] as calculated by AttainX. Supp. COS at 4-5. In this regard, the contracting officer claims that the agency always intended the FTE numbers to refer to full staffing for the base year, which is 26 two-week iterations, and does not include the transition team's 6 two-week iterations. *Id.* at 4. The agency asserts therefore that MiamiTSPi proposed [DELETED] hours which, when divided by 1,912 hours for an FTE, equals [DELETED] FTEs. *Id.* In addition, the agency contends that there were three other vendors that proposed fewer FTEs than the agency's revised [DELETED] FTEs for MiamiTSPi; therefore, the price competition for this procurement, in the agency's view, "clearly suggests that MiamiTSPi's number of FTEs are realistic for the work to be performed."¹⁵ *Id.* Notwithstanding the mathematical error, the agency maintains that the price evaluation reasonably found MiamiTSPi's level of effort was realistic. *Id.*

Based on our review of the record, we conclude that the GSA's price evaluation was unreasonable. Specifically, the agency has admitted it miscalculated MiamiTSPi's FTEs in its price analysis. Whether the correct number of MiamiTSPi's FTEs is [DELETED], as the protester suggests, or [DELETED], as the agency contends, the fact remains that the agency based its price analysis on a miscalculated number of FTEs. It is clear from the record that the agency compared FTEs in its price analysis. Indeed, the agency explained in its award decision that MiamiTSPi's 103 FTEs were only 2 fewer than the 105.5 FTE average. While the agency argues that even with the mathematical error, MiamiTSPi's number of FTEs was realistic, we find this argument unavailing. As a result of the agency's miscalculated FTEs, the average number FTEs that the agency used as a unit of comparison is also inaccurate. The agency's error permeated its price analysis. We find the agency's post-protest explanation to be unpersuasive and afford it little weight. We therefore find that the agency's price evaluation is unreasonable.

Documentation of Price Evaluation

In light of GSA's calculation error discussed above, we are recommending that GSA conduct and document a new price evaluation. Notwithstanding the need for a newly documented evaluation, we address below the problems with the agency's documentation of the price evaluation as submitted in response to the protest so the agency understands the scope of the problems that it will need to address in

¹⁵ We note that the three vendors GSA referenced were rated either marginal or unacceptable overall and submitted price quotations that were greater than MiamiTSPi. AR, Tab 2, ADD at 1-2.

documenting any such new evaluation. Specifically, AttainX argues that the agency's price analysis was unreasonable because the contemporaneous record demonstrates that "the evaluators had more concerns with MiamiTSPi's price [quotation] than any other [vendor]" and the agency failed to document how the risks assigned to MiamiTSPi's price quotation were resolved in its award decision. *Id.* at 4-8.

As explained above, although the RFQ did not require a price realism analysis, it indicated that the agency would consider the level of effort for the work to be performed under the contract--specifically, whether "labor categories--and hours for each--appropriate for each task); that is, does the level of effort reflect a clear understanding of the requirements, and is it consistent with the offeror's technical proposal." RFQ amend. 4 at 19. After the evaluators concluded their non-price evaluation, they reviewed the vendors' price quotations and documented their findings in the consensus rating sheet. COS at 2; see also Dkt. No. 26 (explaining that the agency's price evaluation document was AR, Tab 3, Consensus Rating Spreadsheet).

In this regard, the evaluators found that MiamiTSPi's "[b]ase staffing of 103 is 76 [percent] of approximate 135 staffing provided in the [RFQ] pricing sheet; did not impact technical rating due to no minimum specified, but poses a risk to the ability to maintain existing systems and complete the modernization within mandated timelines." AR, Tab 3, Consensus Rating Spreadsheet, Evaluation Matrix, Cell AA51. The evaluators observed that MiamiTSPi, as the "3rd lowest price/FTE," "could pose a significant risk to performance due to potential attrition in high-demand skillsets being able to easily obtain higher pay."¹⁶ *Id.* at Cell AA52.

The evaluators also noted that MiamiTSPi's "[DELETED]; however, it leaves capacity potential short for development and sustainment[.]" *Id.* at Cell AA53. The evaluators further found that "\$[DELETED] for the first [DELETED] days of the ramp-up does not appear realistic; [MiamiTSPi's] subcontractor is [DELETED], however, [they] would need to onboard at least [DELETED] staff members, which would not be covered by [that] amount." *Id.* at Cell AA54. Furthermore, the evaluators noted its concerns that there were insufficient development teams and questioned what that would mean for the program if the agency needed "to surge." *Id.* at Cell AA55. In particular, the evaluators explained, "[t]eams are being [DELETED] however we are anticipating this contract to finish portions of modernization but not all of modernization. Therefore, the overall team [DELETED] are premature." *Id.* The evaluators also identified labor categories in MiamiTSPi's quotation that were priced below expected experience levels. *Id.* at Cell AA57. Finally, the evaluators identified additional positions MiamiTSPi would need to perform the contract and concluded that MiamiTSPi would need [DELETED] more staff members. *Id.* at Cell AA58.

¹⁶ We note that although the evaluators indicated that MiamiTSPi's quotation was the 3rd lowest price/FTE, the record demonstrates that MiamiTSPi's price was the second lowest price and MiamiTSPi's quotation provided for the fourth lowest number of FTEs. AR, Tab 2, ADD at 13.

Notwithstanding all of these documented issues and concerns, there is no mention of them in the award decision. The contracting officer attempts to explain away all of these documented concerns in the consensus rating spreadsheet by asserting that the evaluators held “multiple verbal meetings” in which they concluded MiamiTSPi’s price quotation was appropriate for its proposed staffing. COS at 3. In the award decision, the contracting officer, who was the SSA, simply states that “[t]he proposed prices, labor categories and level of effort labor hours were evaluated and were considered to be realistic to perform the work and showed a clear understanding of work to be performed and is consistent with the offeror’s technical response.”¹⁷ AR, Tab 2, ADD at 12. According to the agency, even though the evaluators did not document their final conclusions, the evaluators no longer considered the risks relevant and this is evidenced by their absence from the award decision. *Id.* In the contracting officer’s view, “[t]he evaluation team resolved all concerns about any documented risks during consensus discussions, which is ultimately documented by the fact that they don’t appear in the award decision document.” Supp. COS at 3.

AttainX contends that nothing in the contemporaneous record demonstrates how any of the risks documented in the consensus rating spreadsheet for MiamiTSPi’s price quotation were resolved. Comments & Supp. Protest at 5-7. AttainX asserts that the award decision does not explain what happened to the risks identified in the consensus rating spreadsheet, *i.e.* the award decision does not document how or why the risks were withdrawn or deemed inapplicable after being discussed by the evaluators. *Id.* at 6. In the protester’s view, GSA’s claim that the lack of documentation demonstrates that the evaluators resolved all their concerns about MiamiTSPi’s risks is “nonsensical on its face.” Supp. Comments at 4.

While we will not substitute our judgment for that of the agency, we will sustain a protest where the agency’s conclusions are inconsistent with the solicitation’s evaluation criteria, undocumented, or not reasonably based. *DRS ICAS, LLC*, B-401852.4, B-401852.5, Sept. 8, 2010, 2010 CPD ¶ 261 at 5. When an agency fails to document or retain evaluation materials, it bears the risk that there may not be an adequate supporting rationale in the record for us to conclude that the agency had a reasonable basis for the source selection decision. *Global Aerospace Corp.*, B-414514, July 3, 2017, 2017 CPD ¶ 198 at 10.

Here, the record reveals that the agency failed to document its resolution of risks that were in fact contemporaneously documented by the agency’s evaluators in the agency’s consensus price analysis. Specifically, the consensus rating spreadsheet identified risks in MiamiTSPi’s price quotation, which were nonetheless given no further consideration or discussion in the evaluation record and selection decision. Nothing in

¹⁷ Even though some of the evaluators’ comments appear to indicate that the agency conducted a price realism analysis, there was no negative impact to MiamiTSPi’s technical evaluation as a result of the evaluators’ findings; and therefore, we are unable to conclude that the agency in fact conducted a price realism evaluation. *NJVC, LLC*, *supra*; *DynCorp Int’l LLC*, *supra*.

the contemporaneous record documents or supports GSA's contention that the identified risks were subsequently reviewed and found minor or irrelevant. We accord much greater weight to contemporaneous source selection materials than to representations made in response to protest contentions. *Celta Servs., Inc.*, B-411835; B-411835.2, Nov. 2, 2015, 2015 CPD ¶ 362 at 8-9. Furthermore, we give little weight to post-protest statements that are inconsistent with the contemporaneous record. *Caddell Constr. Co., Inc.*, B-411005.1, B-411005.2, Apr. 20, 2015, 2015 CPD ¶ 132 at 11.

In fact, during the development of the protest, our Office requested that GSA provide "all price evaluation documents, including any consensus price evaluation reports or spreadsheets for both MiamiTSPi, LLC and AttainX." Notice of Agency Document Production at 2. The agency responded that "GSA's price evaluation documents were included in the [a]gency [r]eport at [Tab] 3, the Consensus Rating Spreadsheet." Dkt. No. 26. To the extent agency then asserted during the protest that the consensus price report it provided was actually just a "draft" document, see COS at 3, and that the findings were resolved orally, the agency did not provide any declarations from any evaluators to support the assertion that the consensus document was a "draft", that verbal meetings were held resolving the issues or their reasoning for concluding numerous risks were no longer considered relevant. Instead, the agency simply asserts, without any support, contemporaneous or otherwise, that all of the documented findings were overtaken by undocumented considerations and evaluations. Given the lack of documentation of the alleged resolution of clearly documented concerns with MiamiTSPi's price quotation, we cannot conclude that the risks were in fact reasonably considered. As such, we sustain this protest ground.

In sum, the record reflects that while GSA was not required to conduct a price realism analysis, the solicitation provided that the agency would consider whether the level of effort was realistic for the work to be performed under the contract. The record also reflects that the agency miscalculated the number of MiamiTSPi's FTEs, which the agency then used in its price analysis. Moreover, the agency's price analysis failed to document the reconciliation of risks assessed to MiamiTSPi's price quotation in its award decision. Accordingly, we find that the record fails to provide a basis for our Office to conclude that the agency's price evaluation was reasonable and we sustain these protest grounds.

Best-Value Tradeoff Decision

AttainX argues that the agency's best-value tradeoff decision--and award to MiamiTSPi--is unreasonable because the agency relied upon unreasonable non-price and price evaluations. Protest at 19-20. An agency's best-value determination is flawed when one or more of the underlying evaluations upon which that tradeoff analysis is based are unreasonable, erroneous or improper. *TeleCommunication Sys., Inc.*, B-408269.2, Dec. 13, 2013, 2013 CPD ¶ 291 at 7; see *Ashland Sales & Serv. Co.*, B-291206, Dec. 5, 2002, 2003 CPD ¶ 36 at 7. Because we sustain AttainX's challenges

to the agency's technical and price evaluations, we also sustain AttainX's overall challenge to the best-value tradeoff.

CONCLUSION AND RECOMMENDATION

For the reasons discussed above, we conclude that GSA's evaluation of MiamiTSPi's similar experience is not in accordance with SBA regulations. We also conclude that GSA's price evaluation and best-value determination were unreasonable. Accordingly, we recommend that, consistent with our decision, the agency conduct a new evaluation and make a new award determination. We also recommend that the agency reimburse the protester's reasonable costs associated with filing and pursuing its protest, including attorneys' fees. Bid Protest Regulations, 4 C.F.R. § 21.8(d). The protester's certified claims for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after the receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

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General Counsel